

THE HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARTIN LUTHER KING, JR.
COUNTY; PIERCE COUNTY;
SNOHOMISH COUNTY; CITY AND
COUNTY OF SAN FRANCISCO;
COUNTY OF SANTA CLARA; CITY
OF BOSTON; CITY OF COLUMBUS;
CITY OF NEW YORK; CITY &
COUNTY OF DENVER;
METROPOLITAN GOVERNMENT OF
NASHVILLE & DAVIDSON COUNTY;
PIMA COUNTY; COUNTY OF
SONOMA; CITY OF BEND; CITY OF
CAMBRIDGE; CITY OF CHICAGO;
CITY OF CULVER CITY; CITY OF
MINNEAPOLIS; CITY OF PASADENA;
CITY OF PITTSBURGH; CITY OF
PORTLAND; CITY OF SAN JOSÉ;
CITY OF SANTA MONICA; CITY OF
TUCSON; CITY OF WILSONVILLE;
CENTRAL PUGET SOUND REGIONAL
TRANSIT AUTHORITY; INTERCITY
TRANSIT; SAN FRANCISCO COUNTY
TRANSPORTATION AUTHORITY;
TREASURE ISLAND MOBILITY
MANAGEMENT AGENCY; PORT OF
SEATTLE; KING COUNTY REGIONAL
HOMELESSNESS AUTHORITY;
SANTA MONICA HOUSING
AUTHORITY; COUNTY OF
ALAMEDA; CITY OF
ALBUQUERQUE; MAYOR AND CITY
COUNCIL OF BALTIMORE; CITY OF
BELLEVUE; CITY OF BELLINGHAM;

No. 2:25-cv-00814-BJR

SECOND AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF

SECOND AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT AND
INJUNCTIVE RELIEF - 1

1 CITY OF BREMERTON; COUNTY OF
 2 DANE; CITY OF EUGENE; CITY OF
 3 HEALDSBURG; COUNTY OF
 4 HENNEPIN; KITSAP COUNTY; CITY
 5 OF LOS ANGELES; CITY OF
 6 MILWAUKEE; MILWAUKEE
 7 COUNTY; MULTNOMAH COUNTY;
 8 CITY OF OAKLAND; CITY OF
 9 PACIFICA; CITY OF PETALUMA;
 10 RAMSEY COUNTY; CITY OF
 11 ROCHESTER; CITY OF ROHNERT
 12 PARK; CITY OF SAN DIEGO; SAN
 13 MATEO COUNTY; CITY OF SANTA
 14 ROSA; CITY OF WATSONVILLE;
 15 CULVER CITY HOUSING
 16 AUTHORITY; PUGET SOUND
 17 REGIONAL COUNCIL; SONOMA
 18 COUNTY TRANSPORTATION
 19 AUTHORITY; and SONOMA COUNTY
 20 COMMUNITY DEVELOPMENT
 21 COMMISSION,

22 Plaintiffs,

23 vs.

24 SCOTT TURNER in his official capacity
 25 as Secretary of the U.S. Department of
 26 Housing and Urban Development; the
 27 U.S. DEPARTMENT OF HOUSING
 AND URBAN DEVELOPMENT; SEAN
 DUFFY in his official capacity as
 Secretary of the U.S. Department of
 Transportation; the U.S. DEPARTMENT
 OF TRANSPORTATION; TARIQ
 BOKHARI in his official capacity as
 acting Administrator of the Federal
 Transit Administration; the FEDERAL
 TRANSIT ADMINISTRATION;
 GLORIA M. SHEPHERD in her official
 capacity as acting Director of the Federal
 Highway Administration; the FEDERAL
 HIGHWAY ADMINISTRATION;
 CHRIS ROCHELEAU in his official
 capacity as acting Administrator of the
 Federal Aviation Administration; the

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1 FEDERAL AVIATION
2 ADMINISTRATION; DREW FEELEY in
3 his official capacity as acting
4 Administrator of the Federal Railroad
5 Administration; the FEDERAL
6 RAILROAD ADMINISTRATION;
7 ROBERT F. KENNEDY, JR. in his
8 official capacity as Secretary of the U.S.
9 Department of Health and Human
10 Services; and the U.S. DEPARTMENT
11 OF HEALTH AND HUMAN
12 SERVICES,

Defendants.

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I. INTRODUCTION

1. It is not the prerogative of the President “to make laws or a law of the United States,” which would plainly “invade the domain of power expressly committed by the constitution exclusively to congress.” *Cunningham v. Neagle*, 135 U.S. 1, 83–84 (1890). Rather, it is the duty of the President, and, by extension, the executive branch agencies he administers, to “take care that the laws are faithfully executed.” U.S. Const. art. II, sec. 3. Among other things, this duty requires the executive branch to respect the powers granted to Congress and those reserved to the states, while carefully administering statutes enacted through the legislative process.

2. In authorizing federal grant dispersals, Congress exercised its spending power to establish permissible conditions that agencies may impose on a grant award. An agency lacks authority to impose grant conditions beyond what Congress has authorized, and such “conditions are ultra vires.” *City of Los Angeles v. Barr*, 941 F.3d 931, 945 (9th Cir. 2019). In short, an agency’s power to condition grants is wholly dependent on the existence of statutory authority. *City & Cnty. of San Francisco v. Barr*, 965 F.3d 753, 766 (9th Cir. 2020).

3. Moreover, Congress’s power to attach conditions to federal grants is constrained by the Constitution. *South Dakota v. Dole*, 483 U.S. 203, 207–08, 211 (1987). The Executive’s power to attach conditions to federal grants thus is further restricted by these limits on congressional power.

4. Here, the U.S. Department of Housing and Urban Development (HUD), often acting through its program offices; the U.S. Department of Transportation (DOT), often acting through its operating administrations, including the Federal Transit Administration (FTA), the Federal Highway Administration (FHWA), the Federal Aviation Administration (FAA), and the Federal Railroad Administration (FRA) (collectively, the “DOT Defendants”); and the U.S.

1 Department of Health and Human Services (HHS), often acting through its operating divisions and
 2 agencies,¹ seek to impose conditions on funding, provided through congressionally authorized
 3 federal grant programs, to coerce grant recipients that rely on federal funds into implementing
 4 President Trump's policy agenda, and direct them to adopt his legal positions, contrary to settled
 5 law. By unilaterally imposing grant conditions Congress has not authorized and that even Congress
 6 could not constitutionally enact, Defendants usurp Congress's power of the purse. These
 7 conditions bear little or no connection to the purposes of the grant programs Congress established.
 8 They also contravene bedrock separation of powers principles and violate numerous other
 9 constitutional and statutory protections, including (among others) the Spending Clause, the Tenth
 10 Amendment's anti-commandeering principle, and the Fifth Amendment's void-for-vagueness
 11 doctrine, as well as the Administrative Procedure Act (APA).
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13
 14 5. In sum, Defendants' unlawful attempts to repurpose federal grant programs
 15 established by Congress harm Plaintiffs by threatening **more than \$12 billion** in already-awarded
 16 and soon to be awarded funds they need to support critical programs and services for their
 17 residents, including permanent and transitional housing, transit services and improvements,
 18 airports, health care, and more. Allowing the unlawful grant conditions to stand would negatively
 19 impact Plaintiffs' committed budgets, force reductions in their workforce, and undermine their
 20 ability to determine for themselves how to meet their communities' unique needs. As such,
 21

22
 23 ¹ Plaintiffs refer herein to the HUD, DOT, and HHS subdivisions using each agency's
 24 terminology. Thus, for DOT, Plaintiffs use the term "operating administrations" or "OAs," *see*
 25 49 C.F.R. § 1.2(b); for HHS, "operating divisions and agencies," *see* HHS Agencies & Offices,
 26 <https://www.hhs.gov/about/agencies/hhs-agencies-and-offices/index.html> (last visited June 27,
 27 2025); and for HUD, "program offices" or simply "offices," *see* U.S. Dep't of Housing & Urban
 Dev., Programs of HUD, 2025,
<https://www.hud.gov/sites/dfiles/Main/documents/HUDPrograms2025.pdf>.

1 Plaintiffs seek an order declaring the grant conditions at issue unlawful, void, and unenforceable
 2 and enjoining their imposition and enforcement.

3 II. JURISDICTION AND VENUE

4 6. The Court has jurisdiction under 28 U.S.C. § 1331. This Court has further remedial
 5 authority under the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202 *et seq.*

6 7. Venue properly lies within the Western District of Washington because this is an
 7 action against an officer or employee of the United States and an agency of the United States, there
 8 are Plaintiffs residing in this judicial district, and a substantial part of the events or omissions
 9 giving rise to this action occurred in this district. 28 U.S.C. § 1391(e)(1).

10 III. PARTIES

11 8. Plaintiff Martin Luther King, Jr. County (“King County”) is a home rule charter
 12 county organized and existing under and by virtue of the constitution and laws of the State of
 13 Washington.

14 9. King County relies on nearly \$67 million each year in HUD Continuum of Care
 15 (CoC) grant funds to serve its homeless residents, who numbered almost 17,000 during a recent
 16 count. King County also receives millions of dollars in other HUD funding, such as approximately
 17 \$5.6 million annually in Community Development Block Grant (CDBG) funds, approximately
 18 \$3.4 million annually in HOME Investment Partnerships (HOME) funds, and approximately
 19 \$295,000 annually in Emergency Solutions Grant (ESG) funds. These dollars, in turn, critical
 20 housing, community development, and human services programs, including infrastructure repairs
 21 to maintain the habitability of existing housing, senior center and other community facility capital
 22 repairs, multi-family affordable housing developments, and temporary shelter. King County also
 23 provides approximately \$2.6 million in pass-through funding from CDBG.

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1 10. Additionally, King County relies on substantial federal grants—including over
2 \$446 million in appropriated FTA grants—to provide critical transit services and improvements
3 for the benefit of King County residents. And King County also relies on significant federal
4 funding—including over \$7 million in FAA entitlement grants awarded in 2023 and 2024 (with
5 over \$6.6 million remaining to be disbursed) and a projected \$9.5–\$15.3 million in FAA
6 entitlement grant funding for 2025–2029—in operating, maintaining, and improving the King
7 County International Airport/Boeing Field in Seattle, Washington. Finally, King County relies on
8 approximately \$84 million in grants administered by FHWA, including discretionary grants
9 awarded directly to King County and formula grants awarded to the Washington State Department
10 of Transportation (“WSDOT”) and the Puget Sound Regional Council and allocated to King
11 County, for highways, roads, tunnels, bridges, and other transit capital projects.
12

13
14 11. Finally, King County receives funding from HHS through over 80 federal grant
15 programs. For example, HHS funding through Health Resources and Services Administration
16 (HRSA) supports health centers for underserved populations. King County was awarded \$5.5
17 million for FY 2025 and the same amount for FY 2026. King County also receives funding through
18 Ryan White HIV/AIDS (RWHA) program Part A to provide quality medical care and essential
19 support services for low-income individuals living with HIV who are uninsured or underinsured.
20 King County has applied for funding through this program in the amount of \$7,712,292 to cover
21 the period March 1, 2025–February 28, 2026, and has so far received notices of awards totaling
22 \$3,316,948 for that period.
23

24 12. King County brings the action as to the unlawful HUD Grant Conditions, the
25 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions as further defined
26 below.
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1 13. Plaintiff Pierce County is a home rule charter county organized and existing under
2 and by virtue of the constitution and laws of the State of Washington.

3 14. Pierce County relies on just over \$4.9 million annually (as of 2025) in CoC funds
4 to support permanent supportive housing and rapid rehousing projects for individuals and families
5 experiencing homelessness throughout the county. Pierce County also receives approximately \$41
6 million in additional HUD grant funding to address housing instability, support vulnerable
7 populations, and invest in community development, among other critical programs and services.
8

9 15. Pierce County also relies on substantial transportation grants, including more than
10 \$14 million in FHWA grants and at least \$696,000 in FAA grants, some of which are passed
11 through from WSDOT.

12 16. Pierce County also receives approximately \$75 million in grant funding from HHS,
13 which it relies on to deliver critical health and human services to the county's vulnerable
14 populations, promote community resilience, and improve outcomes for individuals and families.
15

16 17. Pierce County brings the action as to the unlawful HUD Grant Conditions, the
17 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

18 18. Plaintiff Snohomish County is a home rule charter county organized and existing
19 under and by virtue of the constitution and the laws of the State of Washington.

20 19. Snohomish County relies on nearly \$16.7 million each year in CoC grant funds to
21 serve its homeless residents. Snohomish County annually receives formula grant funding from the
22 CDBG, ESG, and HOME programs and also applies for additional HUD funding from time to
23 time.
24

25 20. While the amount varies from year to year, Snohomish County relies on millions
26 of dollars in FAA grant funds annually to cover the costs of airport improvements at Paine Field
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1 Airport. Snohomish County relies on DOT grant funds, including FHWA grant funds, every year
2 and has applied for \$34 million in FHWA grant funds and \$2 million in other DOT grant funds.
3 These grant funds would fund projects related to road and bridge improvements and improvements
4 to a solid waste rail facility.

5
6 21. Snohomish County relies on direct and pass-through HHS funds, totaling over \$29
7 million dollars in 2024, to fund HEAD Start and other services to seniors, individuals with
8 disabilities, and low-income residents throughout Snohomish County, as well as another \$9.4
9 million in HHS grant funds in 2025 and 2026 for public health services such as childhood lead
10 prevention and monitoring, opioid overdose prevention and treatment, tuberculosis treatment and
11 monitoring, and sexually transmitted infections treatment and contact tracing. Additional HHS
12 pass-through grant funds in the amount of nearly \$2.7 million dollars fund Snohomish County's
13 child support enforcement.

14
15 22. Snohomish County brings the action as to the unlawful HUD Grant Conditions, the
16 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

17 23. Plaintiff City and County of San Francisco ("San Francisco") is a municipal
18 corporation organized and existing under and by virtue of the laws of the State of California.

19
20 24. San Francisco relies on approximately \$240 million in active HUD entitlement and
21 discretionary grant funds to expand affordable housing opportunities, provide services to maintain
22 housing stability and reduce displacement for low- and moderate-income residents, and provide
23 housing and emergency shelter services to homeless residents, who numbered 8,323 during the
24 most recent count.

25 25. San Francisco also relies on nearly \$2.3 billion in DOT funding. This funding
26 includes nearly \$1.3 billion in FTA grants and nearly \$170 million in FHWA grants to provide
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1 critical transit services and street improvements for the benefit of people traveling to, from, and
2 within San Francisco. Additionally, San Francisco anticipates receiving \$803 million in funding
3 from the FAA as part of its current capital improvement plan to fund critical rehabilitation,
4 replacement, and reconstruction projects related to taxiways, runways, terminals, and other airport
5 infrastructure.

6
7 26. San Francisco further relies on approximately \$325 million in active non-Medicaid and
8 Medicare HHS grant funding from virtually all HHS operating divisions, including approximately
9 \$148 million from the Administration for Children and Families (ACF), \$90 million from the Centers
10 for Disease Control and Prevention (CDC), \$48 million from HRSA, and \$19 million from the
11 Substance Abuse and Mental Health Services Administration (SAMHSA). This funding provides
12 critical financial assistance and/or other supportive services to assist low-income families, foster
13 families, and other vulnerable residents, such as refugees and asylees, those experiencing
14 homelessness, and those suffering from mental illness or substance abuse disorders. In addition, HHS
15 funding supports vital work to monitor, intervene, and respond to public health concerns, such as the
16 transmission of HIV, other sexually transmitted infections, and tuberculosis.

17
18 27. San Francisco brings the action as to the unlawful HUD Grant Conditions, the
19 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

20 28. Plaintiff County of Santa Clara (“Santa Clara”) is a charter county and political
21 subdivision of the State of California.

22 29. Santa Clara administers tens of millions of dollars each year in HUD grant funds to
23 serve the region’s approximately 10,000 homeless residents. Most recently, the Santa Clara County
24 Continuum of Care was awarded approximately \$47 million in grant funding in HUD CoC funds,
25 of which the County of Santa Clara is the direct recipient for approximately \$33 million. Santa
26

1 Clara annually receives approximately \$2–3 million in CDBG and HOME program funds
2 administered by HUD for programs that support community and economic development projects
3 that benefit low- and moderate- income residents, seniors, people with disabilities, and other
4 vulnerable populations. For the upcoming fiscal year, Santa Clara expects approximately an
5 additional \$9 million in funding administered by HUD, including CDBG, HOME, and other grants.
6

7 30. As relevant for purposes of this litigation, Santa Clara also has approximately \$208
8 million in grants and other funding for the present fiscal year from HHS that goes to Santa Clara’s
9 Social Services Agency to support child abuse prevention efforts, programs for foster youth,
10 adoption services, and programs for aging and/or disabled residents; in addition, as required by
11 California law, the Social Services Agency administers HHS grant-funded public benefits, such as
12 Temporary Assistance for Needy Families (TANF, known as “CalWORKS” in California). Santa
13 Clara’s healthcare system also receives at least \$68 million in HHS funding for public health
14 programs to prevent and address infectious disease, respond to toxins and biohazards, and support
15 maternal and child health; provide behavioral health services; and support the operations of Santa
16 Clara’s safety-net hospitals and clinics, including for the most vulnerable residents such as those
17 experiencing homelessness and those newly arriving as refugees and asylees.
18

19 31. Additionally, Santa Clara relies on significant federal funding from FHWA for
20 projects like bridge rehabilitation and repair, for which it currently has approximately \$140 million
21 in programmed federal funds and \$55 million in obligated federal funds, of which approximately
22 \$11.2 million has not yet been invoiced for reimbursement. Santa Clara receives these grant funds
23 indirectly pursuant to an agreement with the California Department of Transportation
24 (“CalTrans”).
25

26 32. Santa Clara brings this action as to the unlawful HUD Grant Conditions, the
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1 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

2 33. Plaintiff City of Boston (“Boston”) is a municipal corporation organized under the
3 laws of the Commonwealth of Massachusetts.

4 34. Boston relies on nearly \$48 million annually in CoC grant funds to house and
5 stabilize residents exiting homelessness. Boston also receives approximately \$27 million in HUD
6 formula grants, including through the CDBG program, the HOME program, the Housing
7 Opportunities for Persons with AIDS (HOPWA) program, and the ESG program.

8 35. Boston also has applied for and received eight grants from DOT over the past four
9 years, and utilizes and relies upon over \$67 million in DOT funds administered by both the FHWA
10 and the FTA. These funds provide support for key infrastructure projects, pedestrian and vehicle
11 safety improvements, revitalization initiatives in underserved areas, and important connectivity
12 upgrades. These investments in city streets and infrastructure serve as the foundation of Boston’s
13 economy and of the ties among Boston’s neighborhoods.

14 36. Boston also receives millions of dollars through HHS and the CDC, largely as a
15 subrecipient of the Massachusetts Executive Office of Elder Affairs, to its Age Strong Commission
16 and the Boston Public Schools.

17 37. Boston brings the action as to the unlawful HUD Grant Conditions, the unlawful
18 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

19 38. Plaintiff City of Columbus (“Columbus”) is a municipal corporation organized
20 under Ohio law, see Ohio Const. art. XVIII. It is the capital of Ohio, its largest city, and the
21 fifteenth largest city in the United States, with a population of over 905,000 according to the 2020
22 U.S. Census.

23 39. Columbus receives millions of dollars from HUD, including through the CDBG,
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1 HOME, HOPWA, and ESG programs. Columbus's Community Shelter Board, Columbus's CoC
2 designee, directly receives HUD CoC grant funds and receives an additional approximately \$1
3 million per year of HUD grant funds from the ESG and HOME programs which are passed through
4 from Columbus in order to provide crucial services to the city's and county's homeless residents.
5 Columbus also provides \$10 million annually to the Community Shelter Board from its general
6 revenue fund. Columbus additionally receives direct HUD funding for lead safety and for healthy
7 homes.
8

9 40. Since 2020, Columbus has been awarded over \$200 million from the FHWA in
10 both formula funding grants and discretionary grants.

11 41. Finally, Columbus receives millions in funding from HHS, including \$8 million to
12 its Central Ohio Area Agency on Aging from the Nutritional Services Incentive Program, and \$3.3
13 million from the RWHA program to Columbus's Department of Public Health, which helps
14 residents of the multi-county region living with HIV to achieve viral suppression. The RWHA Part
15 A program funds medical and supportive services, such as primary care, case management, and
16 housing programs.
17

18 42. Columbus brings the action as to the unlawful HUD Grant Conditions, the unlawful
19 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

20 43. Plaintiff City of New York ("NYC") is a municipal corporation organized and
21 existing under the laws of the State of New York.
22

23 44. NYC, through its Department of Housing Preservation and Development, receives
24 approximately \$53 million in CoC funds to provide rental assistance for chronically homeless
25 households to reside in permanent supportive housing. As the collaborative applicant and
26 Homeless Management Information System (HMIS) lead agency for the New York City
27

1 Continuum of Care (“NYC CoC”), NYC, through its Department of Social Services (“NYC
2 DSS”), receives an additional approximately \$6 million in grants to provide technical and
3 administrative support to all of the programs in the NYC CoC. Additionally, NYC, through NYC
4 HPD, NYC DSS, NYC’s Department of Health and Mental Hygiene (“NYC DOHMH”), and other
5 NYC agencies, receives millions more in annual HUD funding through various programs,
6 including the ESG, CDBG, HOME, and HOPWA programs.
7

8 45. NYC, through several of its agencies, also receives hundreds of millions of dollars
9 in federal funding from components of the federal DOT, such as the FHWA and FTA, including
10 well over \$500 million to the New York City Department of Transportation (“NYC DOT”) as a
11 direct recipient or subrecipient of competitive and formula grants.
12

13 46. NYC receives millions of dollars in funding from HHS as well, including through
14 NYC DOHMH. This funding includes grants from HRSA to support HIV care and treatment and
15 supportive services for people with HIV/AIDS, a grant from CDC to support HIV prevention and
16 surveillance, grants from both HRSA and CDC to support NYC’s work on the federal Ending the
17 HIV Epidemic initiative, and multiple other grants from the CDC, SAMHSA, Administration for
18 Strategic Preparedness and Response (ASPR), and Office of the Assistant Secretary for Health
19 (OASH). Federal funds from HHS also flow and have flowed to NYC through other HHS
20 agencies, such as the ACF, National Institutes of Health (NIH), and Administration for
21 Community Living (ACL), including through competitive grants, formula funding, and/or block
22 grant funding.
23

24 47. NYC brings the action as to the unlawful HUD Grant Conditions, the unlawful
25 DOT Grant Conditions, and the unlawful HHS Grant Conditions.
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27 48. Plaintiff City & County of Denver (“Denver”) is a home rule city and county
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1 organized and existing under the constitution and laws of the State of Colorado and the Denver
2 City Charter. Denver is the capital city of Colorado and the state's largest city and county with a
3 population of 714,000 according to 2023 census data.

4 49. Denver, through its Department of Aviation, is the owner and operator of the
5 Denver International Airport, the third busiest airport in the United States, and the sixth busiest
6 airport in the world. Denver receives hundreds of millions of dollars in FAA grant funds, \$130
7 million in FHWA grant funds, and also relies on approximately \$167 million in FTA grant funds
8 to provide critical transit services and improvements.
9

10 50. Denver also receives multiple grants from HHS, including funding through the
11 RWHA program. In recent years, Denver has received over \$7 million in RWHA Part A grants
12 each fiscal year. Through its Department of Public Health and Environment, Denver uses these
13 funds to provide essential public health services to community members throughout the Denver
14 region.
15

16 51. Denver brings the action as to the unlawful DOT Grant Conditions and the unlawful
17 HHS Grant Conditions.

18 52. Plaintiff the Metropolitan Government of Nashville & Davidson County
19 ("Nashville") is a combined municipal corporation and county government organized and existing
20 under the laws of the State of Tennessee.
21

22 53. On March 11, 2025, Nashville received a notice of award for two FY 2024 HUD
23 CoC grants, for a total of \$289,354.

24 54. Nashville also receives significant DOT funding. For example, in May of 2025,
25 Nashville was awarded \$13 million for their "We Are Nolensville Pike" project, which would
26 provide for constructing critical improvements along a major roadway in Nashville to address
27

1 safety concerns under the Fiscal Year 2023 Safe Streets and Roads for All Grant program discussed
2 in further detail below. Nashville also relies on \$10 million in funding from DOT's Strengthening
3 Mobility and Revolutionizing Transportation (SMART) discretionary grant program, which
4 supports advanced smart community technologies and systems in order to improve transportation
5 efficiency and safety.
6

7 55. Nashville brings the action as to both the unlawful HUD Grant Conditions and the
8 unlawful DOT Grant Conditions.

9 56. Plaintiff Pima County is a political subdivision organized and existing under and
10 by virtue of the constitution and laws of the State of Arizona, and home to more than a million
11 residents.

12 57. Pima County relies on approximately \$2 million each year in direct funding from
13 HUD CoC grant funds. These funds are used to serve Pima County's homeless residents, who
14 number over 2,500 based on information collected by Pima County. Pima County also receives
15 approximately \$2.6 million in CDBG funds and approximately \$225,000 in ESG funds, both from
16 HUD.
17

18 58. Additionally, Pima County relies on federal transportation grants of more than \$75
19 million (approximately \$60.1 million federal; approximately \$15.6 local matching funds)—
20 including over \$240,000 in appropriated FTA grants, over \$2.6 million in FAA grants, over \$30.6
21 million in FHWA grants (programmed by Pima Association of Governments (PAG) and
22 administered through a Certified Accepted Agency Agreement with Arizona Department of
23 Transportation (ADOT)), over \$35.7 million in FHWA grants (direct), and over \$6.5 million
24 through FHWA's Federal Lands Access Program to provide critical transit services and
25 transportation improvements for the benefit of Pima County residents. The funding at risk includes
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1 both the federal grant amount and the required local match, \$60.1 million and \$15.6 million,
2 respectively. The local match comes from a variety sources included Pima County Highway User
3 Revenue Funds, Vehicle License Tax, Impact Fees, and Regional funding including Regional
4 Transportation Authority.

5
6 59. Pima County also relies on HHS grants valued annually at more than \$21 million,
7 with approximately \$7 million in direct grants and more than \$14 million in pass-through grants.

8 60. Pima County brings the action as to the unlawful HUD Grant Conditions, the
9 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

10 61. Plaintiff County of Sonoma (“Sonoma County”) is a political subdivision of the
11 State of California, organized and existing under the laws of California.

12 62. In its role as collaborative applicant, the County of Sonoma Department of Health
13 Services (“Sonoma DHS”) holds three active HUD CoC grants totaling more than \$1 million (CY
14 2025–2026). Sonoma DHS also oversees annual CoC project submissions in e-snaps, representing
15 approximately \$4.6 million in funding, the majority of which supports permanent supportive
16 housing for individuals who are chronically homeless, disabled, and have extended histories of
17 homelessness.

18
19 63. The county-run Airport receives approximately \$7 to \$10 million in DOT grants
20 every year, along with a longer-term construction grant totaling approximately \$20-\$22 million,
21 subject to funding and the number of phases required for completion. These DOT grants account
22 for approximately 40% of the Sonoma County Airport’s annual budget. The Sonoma County
23 Airport currently has eight approved active and obligated FAA grants collectively worth more than
24 \$11.8 million, of which \$8.7 million remains after draw-downs, and six pending grants from the
25 FAA, totaling \$7.7 million, for critical infrastructure projects that address critical safety and

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1 security issues, including repairs to runways and wildlife fencing.

2 64. Sonoma County brings the action as to the unlawful HUD Grant Conditions and
3 the unlawful DOT Grant Conditions.

4 65. Plaintiff City of Bend (“Bend”) is municipal corporation with a home-rule all-
5 powers charter under the laws of the State of Oregon.

6 66. Bend applied for and was awarded \$5 million from HUD through its Pathways to
7 Remove Obstacles to Housing (PRO Housing) grant, most of which is made available to applicants
8 for various housing-related costs. Bend has been a CDBG entitlement jurisdiction since 2004; to
9 date, Bend has used over \$13.8 million in CDBG awards for critical city efforts related to domestic
10 violence and homeless services. Bend anticipates receiving an additional \$603,000 in CDBG funds
11 upon approval of its 2025–26 CDBG Annual Action Plan.

12 67. Bend has been awarded over \$33 million in FRA grants to enhance safety and
13 connectivity at roadway-rail crossings. Additionally, in connection with Bend’s city-owned and
14 operated airport, Bend anticipates about \$10.1 million in federal funds from the FAA for 2025
15 through 2029.

16 68. Bend brings the action as to the unlawful HUD Grant Conditions and the unlawful
17 DOT Grant Conditions.

18 69. Plaintiff City of Cambridge (“Cambridge”) is a municipal corporation organized
19 under the laws of the Commonwealth of Massachusetts.

20 70. Cambridge relies on nearly \$6.4 million annually in CoC grant funds to house and
21 stabilize residents exiting homelessness. Cambridge also receives significant funding from several
22 other HUD grants in FY 2024 and FY 2025, which support programs and services that directly
23 benefit the city and its residents. These funds include a \$2,638,641 CDBG grant allocation for FY

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1 2025, and a \$2,395,799 HOPWA grant allocation for FY 2025.

2 71. Cambridge also receives federal funding from DOT, which supports a variety of
3 public infrastructure projects. Cambridge recently received, through DOT, a Reconnecting
4 Communities & Neighborhoods (RCN) grant to design a pedestrian and bicycle bridge over the
5 Fitchburg MZBTA Commuter Rail tracks in North Cambridge. The area is currently difficult for
6 residents and pedestrians to travel due to adjacent roadways and the MBTA rail tracks.
7

8 72. In addition, Cambridge also receives federal funding from HHS's Low-Income
9 Home Energy Assistance Program (LIHEAP) as a pass-through grant from the Massachusetts
10 Executive Office of Housing and Livable Communities (EOHLC). This funding is vital to support
11 fuel assistance programs for low-income residents.

12 73. Cambridge brings the action as to the unlawful HUD Grant Conditions, the
13 unlawful DOT Conditions, and the unlawful HHS Grant Conditions.
14

15 74. Plaintiff City of Chicago ("Chicago") is a municipal corporation and home rule unit
16 organized and existing under the constitution and laws of the State of Illinois.

17 75. On average, the Chicago Department of Transportation (CDOT) relies on
18 approximately \$92 million each year in FTA grants and \$74 million each year in FHWA grants.
19 The Chicago Department of Aviation (CDA) likewise relies on millions of dollars in FAA grants.
20 In 2023, CDA received and relied on \$94.7 million in FAA awards. In 2024, CDA received and
21 relief on \$112.9 million from FAA. These funds are critical to the safety and wellbeing of
22 Chicagoans and people who travel to or through Chicago.
23

24 76. Chicago also relies on millions of dollars in grants from HUD and HHS each year.
25 For FY 2025, Chicago anticipates receiving \$329,849,000 in HUD funds (including carryover
26 amounts) and \$668,884,000 in HHS funds (including carryover amounts). These funding sources

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1 support several citywide programs for vulnerable Chicagoans. For example, in 2024, Chicago's
2 Department of Family and Support Services (DFSS) used HUD funding from CDBG, ESG, and
3 HOME grants to serve 435,225 at-risk Chicagoans by supporting food banks, homeless shelters,
4 and developing affordable rental housing options. Chicago also receives HRSA grants in the
5 amount of \$27,817,885 million from the HIV Emergency Relief Project and \$4,653,437 from the
6 RWHA program. These funds are used to provide clinical and non-clinical services for people with
7 HIV and to engage individuals with HIV into care and medical treatment.

9 77. Chicago brings the action as to the unlawful HUD Grant Conditions, the unlawful
10 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

11 78. Plaintiff City of Culver City ("Culver City") is a charter city and a municipal
12 corporation organized and existing under the Constitution and laws of the State of California.

13 79. Culver City has been awarded approximately \$177,484 from HUD through the
14 CDBG Program for FY 2025–26.

15 80. Additionally, Culver City relies on substantial federal grants—including
16 approximately \$40 million in FTA grants—to purchase buses and provide critical transit services
17 for the benefit of Culver City residents.

18 81. Culver City brings the action as to the unlawful HUD Grant Conditions and the
19 unlawful DOT Grant Conditions.

20 82. Plaintiff the City of Minneapolis ("Minneapolis") is a municipal corporation
21 organized and existing under and by virtue of the laws of the State of Minnesota. It is a home rule
22 charter city.

23 83. Minneapolis receives approximately \$17 million each year in formula grant funding
24 HUD, primarily through four key HUD programs: CDBG, ESG, HOPWA, and HOME. HUD
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1 funds support numerous important city projects, including building new and rehabilitating existing
2 affordable housing, addressing blight, youth violence intervention services, and lead poisoning
3 response and hazard reduction.

4 84. Minneapolis is expecting more than \$150 million in federal funding for upcoming
5 capital improvement projects, the vast majority of which is from DOT, including grants
6 administered by DOT directly and others administered by the FHWA and FRA.

7 85. Every year, Minneapolis has been awarded federal grant funds to support public
8 health in Minneapolis, including from HHS, and currently Minneapolis is supporting programs
9 and services with more than \$20 million in grants from HHS and its operating divisions and
10 agencies. For example, Minneapolis currently has a grant from the CDC in the amount of
11 \$5,757,591, to develop foundational public health infrastructure, focus on developing and retaining
12 the public health workforce, and increase the capacity to meet the public health needs over several
13 years. Minneapolis also has a \$3.9 million grant from the ACF, passed through the Minnesota
14 Department of Health. This funding supports family home visiting, teen pregnancy prevention,
15 and/or Women, Infants, Children (WIC) nutritional services to families at or below 200 percent of
16 federal poverty guidelines who are at risk of child abuse and neglect.

17 86. Minneapolis brings this action as to the unlawful HUD Grant Conditions, the
18 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

19 87. Plaintiff City of Pittsburgh (“Pittsburgh”) is a home rule charter city organized and
20 exiting under the laws and Constitution of the Commonwealth of Pennsylvania. Pittsburgh is a city
21 of the second class.

22 88. Pittsburgh receives approximately \$18 million in HUD block grant funds annually,
23 including through the CDBG, ESG, and HOME programs, as well as other direct HUD funding.

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1 89. Pittsburgh is currently relying on nearly \$5 million in competitive DOT grant funds
2 to serve its residents by funding necessary infrastructure projects in Pittsburgh. The grant funds
3 from DOT—issued through the FHWA—support improvements to essential infrastructure, such
4 as roads and, notably, bridges. Pittsburgh has hundreds of bridges and such infrastructure funding
5 is necessary to the safety of its residents.
6

7 90. Pittsburgh brings this action as to the unlawful HUD Grant Conditions and the
8 unlawful DOT Grant Conditions.

9 91. Plaintiff City of Portland (“Portland”) is a home rule charter city organized and
10 existing under and by virtue of the constitution and laws of the State of Oregon.

11 92. Portland relies on significant federal funding, including over \$130 million in grants
12 from HUD and over \$193 million in grants from DOT. By way of example, Portland has over \$14
13 million in annual distributions of HUD grants for affordable housing and supportive services for
14 low-income people and people living with disabilities, as well as for small business and economic
15 development programs.
16

17 93. Portland’s DOT grants include a \$500,000 FRA grant, to plan safety improvements
18 at fifteen railroad crossings, and a \$9.6 million FHWA grant award.

19 94. Portland brings the action as to the unlawful HUD Grant Conditions and the
20 unlawful DOT Grant Conditions.
21

22 95. Plaintiff City of San José (“San José”) is a municipal corporation and charter city
23 organized and existing under and by virtue of the laws of the State of California.

24 96. San José has been awarded approximately \$21.4 million in FHWA grants under the
25 Safe Streets and Roads for All program, described further below, to improve street safety and was
26 awarded approximately \$8.7 in FRA grants under the Consolidated Rail Infrastructure and Safety
27

1 Improvements program. In addition, San José’s city-operated airport is relying on \$31.1 million in
2 FAA grant funding through 2030 for the maintenance and operation of the airport, as well as
3 anticipating \$89.2 million in capital improvement funding over the next five years.

4 97. San José receives funding from HUD in the form of CDBG, HOME, ESG, and
5 HOPWA grants. It relies on this funding to provide services to its community, and it anticipates
6 receiving approximately \$52 million in HUD funding through 2033. San José also relies on HUD
7 CoC funds received by Santa Clara to serve the city’s homeless population.
8

9 98. San José brings the action as to both the unlawful HUD Grant Conditions and the
10 unlawful DOT Grant Conditions.

11 99. Plaintiff City of Santa Monica (“Santa Monica”) is a municipal corporation and
12 California charter city, organized and existing by virtue of the laws of the State of California.
13

14 100. Santa Monica relies on approximately \$16 million in FTA grant funds to provide
15 transit services for the benefit of Santa Monica residents, workers, and visitors, and has been
16 awarded up to \$30 million under CalTrans’s Highway Bridge Program funded by FHWA grant
17 funds to improve the over 85-year-old Santa Monica Pier Bridge.

18 101. Santa Monica additionally relies on over \$1.1 million in HUD CDBG funding for
19 projects to provide lower- and moderate-income households with viable communities, including a
20 suitable living environment and expanded economic opportunities, and over \$500,000 in HUD
21 HOME funding for rental subsidies for qualifying low-income families at risk of losing housing.
22

23 102. Santa Monica brings the action as to the unlawful HUD Grant Conditions and the
24 unlawful DOT Grant Conditions.

25 103. Plaintiff City of Pasadena (“Pasadena”) is a home rule charter city organized under
26 the laws of the State of California.

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1 104. Pasadena relies on over \$37 million annually in funding from HUD grants,
2 including over \$5 million each year in HUD CoC grant funds to serve its homeless residents, as
3 well as CDBG, ESG, HOPWA, HOME, and Section 8 Housing Choice Voucher grants to support
4 numerous housing initiatives within the city.

5 105. Pasadena also relies on over \$6 million in funding from DOT grants, including
6 FHWA's Safe Streets and Roads for All grants, to provide critical transportation services and
7 improvements within the city.

8 106. Pasadena brings the action as to both the unlawful HUD Grant Conditions and the
9 unlawful DOT Grant Conditions.

10 107. Plaintiff City of Tucson ("Tucson") is a home rule charter city organized and
11 existing under the constitution and laws of the State of Arizona.

12 108. Tucson receives approximately \$20 million in annual formula grants from the FTA
13 for the operation of its transit system. It also relies on substantial FTA discretionary grants to make
14 much-needed improvements to its transit system equipment and infrastructure. That includes
15 approximately \$33 million in FY 2023 and FY 2024 grants for new buses and upgrades to bus
16 facilities. Tucson also relies on FHWA formula and discretionary grants for large transportation
17 infrastructure projects and has approximately \$45.5 in awarded discretionary grant funds between
18 FY2025 and FY2029.

19 109. Tucson receives approximately \$75–80 million in HUD funding per year. For
20 example, Tucson is the Collaborative Applicant for the CoC for the Tucson metropolitan area, the
21 members of which were collectively awarded more than \$14.5 million in CoC funding in January
22 2025. Of this amount, Tucson is the direct recipient of more than \$6.1 million. With a large
23 homeless population and extremely hot summers, combatting homelessness and protecting the

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1 unsheltered is both a high priority and a significant challenge for the community. Tucson also is
2 awarded approximately \$10.5 million in HUD formula grants (CDBG, ESG, HOME, and
3 HOPWA) each year. The Tucson-Pima County public housing programs, which are administered
4 by Tucson, receive approximately \$66.5 million in annual HUD funding. Tucson also receives
5 various discretionary grants from time to time; one recent example is a 2024 \$4,050,000 Lead
6 Hazard Reduction Program grant.

7
8 110. Tucson brings the action as to both the unlawful HUD Grant Conditions and the
9 unlawful DOT Grant Conditions.

10 111. Plaintiff City of Wilsonville (“Wilsonville”) is a home rule charter city organized
11 and existing under and by virtue of the constitution and laws of the State of Oregon.

12 112. The City of Wilsonville, through its municipal transit department, South Metro
13 Area Regional Transit, relies on approximately \$1 million each year in FTA grant funds to provide
14 critical transit services and improvements for the benefit of Wilsonville residents, employees,
15 employers, and visitors. Wilsonville also frequently receives competitive grant funds from the
16 FTA.

17
18 113. Wilsonville’s Community Center, managed by its Parks and Recreation
19 Department, also receives pass-through funds from the HHS ACL pursuant to the Older Americans
20 Act to provide nutrition services, outreach, assessment, information and assistance, case
21 management, reassurance, health promotion and legal consultation for Clackamas County
22 residents aged 60 and older. For FY 2024–25, Wilsonville was awarded \$135,320 in HHS pass-
23 through funds, and was awarded a total of \$254,520 through FY 2026–27.

24 114. Wilsonville brings the action as to the unlawful DOT Grant Conditions and the
25 unlawful HHS Grant Conditions.

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1 115. Plaintiff Central Puget Sound Regional Transit Authority (“Sound Transit”) is a
2 regional transit authority that serves the Sound Transit District, which encompasses areas in King,
3 Pierce, and Snohomish counties. Sound Transit is organized and existing under and by virtue of
4 the laws of the State of Washington.

5 116. Sound Transit relies on substantial federal grants—approximately \$1 billion in
6 DOT grants in 2025 including from the FTA, FHWA, and FRA—to provide critical transit services
7 and improvements for the benefit of approximately 3,385,200 million people who reside within
8 the Sound Transit District.

9 117. Sound Transit brings the action only as to the unlawful DOT Grant Conditions.

10 118. Plaintiff Intercity Transit is a public transportation agency organized under RCW
11 36.57A as a municipal corporation and existing under and by virtue of the laws of the State of
12 Washington to serve a Public Transportation Benefit Area (PTBA).

13 119. Intercity Transit provides transportation and transit options that connect cities and
14 areas within Thurston County, including Olympia, Lacey, Tumwater, and Yelm. Intercity Transit
15 relies on more than \$27 million in FTA grant funds to provide critical transit services and
16 improvements for the benefit of residents of the Thurston County PTBA, as well as a \$2 million
17 DOT SMART grant.

18 120. Intercity Transit brings the action only as to the unlawful DOT Grant Conditions.

19 121. Plaintiff Port of Seattle is a municipal corporation organized and existing under and
20 by virtue of the laws of the State of Washington.

21 122. The Port of Seattle owns and operates the Seattle-Tacoma International Airport, the
22 largest airport in the State of Washington and the 11th busiest airport in the country based on 2023
23 passenger statistics. The Port of Seattle relies on substantial federal grant funding—including more

1 than \$164.5 million in appropriated FAA grants—for critical capital projects.

2 123. The Port of Seattle brings the action only as to the unlawful DOT Grant Conditions.

3 124. Plaintiff King County Regional Homelessness Authority (“King County RHA”) is
4 a government agency formed by the City of Seattle and King County and is organized and existing
5 under and by virtue of the laws of the State of Washington.
6

7 125. King County RHA coordinates the CoC funds for the King County area, including
8 directly administering \$26 million of those funds for emergency shelter, transitional housing, and
9 other programs.

10 126. King County RHA brings the action only as to the unlawful HUD Grant Conditions.

11 127. Plaintiff Santa Monica Housing Authority (“Santa Monica HA”) is a housing
12 authority organized under the laws of the State of California and created by resolution of the Santa
13 Monica City Council.
14

15 128. Santa Monica HA relies on over \$22 million annually in funding for Section 8
16 Housing Choice Vouchers, over \$1 million annually in funding for Emergency Housing Vouchers,
17 and \$5.6 million annually (as of 2025) in CoC funds to support rental assistance for individuals
18 and families experiencing or formerly experiencing homelessness.

19 129. Santa Monica HA brings this action only as to the unlawful HUD Grant Conditions.

20 130. Plaintiff San Francisco County Transportation Authority (“SFCTA”) is a county-
21 level transportation agency existing under and by virtue of the laws of the State of California. It is
22 a separate legal entity from the City and County of San Francisco.
23

24 131. As the designated county congestion management agency for San Francisco,
25 SFCTA develops long-range countywide transportation plans to guide development of the
26 transportation sector. It also administers the proceeds from San Francisco’s dedicated local sales
27

1 tax for transportation. SFCTA currently relies on more than \$107 million in FHWA grants, of
2 which approximately \$10.4 million has been programmed but not yet been obligated. SFCTA
3 relies on FHWA funding to provide critical transportation planning and improvements for the
4 benefit of people traveling to, from, and within San Francisco. SFCTA has applied for additional
5 FHWA funding and plans to seek further FHWA funding in the future. It anticipates continuing to
6 receive formula subgrants through state and regional entities and applying for additional
7 discretionary competitive grants.
8

9 132. SFCTA brings this action only as to the unlawful DOT Grant Conditions.

10 133. Plaintiff Treasure Island Mobility Management Agency (“TIMMA”) is a
11 transportation agency existing under and by virtue of the laws of the State of California. Pursuant
12 to State law, the San Francisco Board of Supervisors has designated SFCTA as the agency to act
13 as the TIMMA. TIMMA is a separate legal entity from the City and County of San Francisco and
14 from SFCTA.
15

16 134. TIMMA is responsible for developing and implementing a comprehensive
17 transportation program for Treasure Island, defined also to include Yerba Buena Island. TIMMA
18 currently relies on funding from FHWA to provide critical transportation improvements.
19

20 135. TIMMA brings this action only as to the unlawful DOT Grant Conditions.

21 136. Plaintiff County of Alameda (“Alameda County”) is a charter county and political
22 subdivision of the State of California.

23 137. Alameda County relies HUD grant funds to serve its most vulnerable residents,
24 including an estimated 9,450 homeless residents. For example, Alameda County budgeted for
25 more than \$40 million in HUD grants annually in fiscal years 2024–25 and 2025–26. HUD also
26 provides additional funds to Alameda County, which the county administers and distributes to
27

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1 cities, community based organizations, and other community partners serving its residents. A
2 significant portion of Alameda County's HUD funding comes from the CoC program.

3 138. Alameda County also relies on funding from DOT, largely provided indirectly
4 through the State of California, to support a number of infrastructure projects, including road,
5 shoulder, and sidewalk repair, updating drainage inlets, and developing traffic and water pollution
6 control plans. For example, Alameda County budgeted for well over \$10 million in DOT funding
7 in fiscal years 2024–25 and 2025–26. Because some projects supported by DOT funds progress
8 over multiple years, some DOT funds may not be spent during a fiscal year in which they are
9 budgeted, in which case those funds are budgeted for use in the next fiscal year.

10
11 139. Alameda County also relies on funding from HHS to support a variety of programs
12 and services, including substance abuse treatment, housing support, behavioral and mental health
13 programs, food insecurity initiatives, and child and family support services, to name just a few.
14 For example, Alameda County budgeted for more than \$60 million in HHS grants annually in
15 fiscal years 2024–25 and 2025–26. Alameda County also receives substantial funding indirectly
16 from HHS, including HHS funds passed through the State of California. In fiscal years 2024–25
17 and 2025–26, Alameda County budgeted for more than \$200 million in such indirect HHS funds.

18
19 140. Alameda County brings this action as to the unlawful HUD Grant Conditions, the
20 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

21
22 141. Plaintiff City of Albuquerque (“Albuquerque”) is a municipal corporation
23 organized and existing under the laws of the State of New Mexico. Albuquerque is the largest
24 municipality in the State of New Mexico, serving more than 560,000 residents.

25 142. Albuquerque administers more than \$10.3 million in HUD grant funding, including
26 direct and pass-through grants, including \$3.7 million in CoC grant funds, \$4.4 million in the
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1 CDBG grant funds, \$1.9 million in HOME grant funds, more than \$370,000 in ESG grant funds,
2 and more. These funds are used to support services and housing vouchers for Albuquerque's
3 unhoused and precariously housed residents.

4 143. Albuquerque also relies on more than \$10 million in federal DOT grants from the
5 FTA and FHWA, including direct and pass-through grants, to improve and maintain
6 Albuquerque's roads and transit infrastructure.

7 144. Albuquerque brings this action as to the unlawful HUD Grant Conditions and the
8 unlawful DOT Grant Conditions.

9 145. Plaintiff the Mayor and City Council of Baltimore ("Baltimore") is a municipal
10 corporation, organized pursuant to Articles XI and XI-A of the Maryland Constitution, and
11 entrusted with all of the powers of local self-government and home rule afforded by those articles.

12 146. Baltimore's current open grants with the federal government include HUD grants
13 in the amount of \$514,491,841, HHS grants in the amount of \$399,736,406, and DOT grants in
14 the amount of \$184,000,000. These funds support an array of critical programs.

15 147. For example, Baltimore, through its Mayor's Office of Homeless Services
16 ("Baltimore MOHS"), receives approximately \$33 million in HUD CoC funds to provide
17 permanent supportive housing, rapid rehousing, and transitional housing programs to individuals
18 experiencing homelessness. Baltimore MOHS also receives approximately \$7 million in HOPWA
19 funding from HUD to help house low-income persons that are medically diagnosed with
20 HIV/AIDS and their families.

21 148. Additionally, Baltimore's Department of Transportation relies on significant
22 federal funding from FHWA for infrastructure and traffic-related projects, receiving approximately
23 \$42 million annually, along with supplemental grants—like a recent \$85.5 million Reconnecting

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1 Communities Grant—for specific repair and rehabilitation projects.

2 149. Lastly, Baltimore’s Health Department receives approximately \$16 million in
3 RWHA Part A funding from HHS to ensure access to essential care and services for the over
4 11,000 individuals living with HIV who are un- or under-insured.

5 150. Baltimore brings this action as to the unlawful HUD Grant Conditions, the unlawful
6 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

7 151. Plaintiff City of Bellevue (“Bellevue”) is a municipal corporation organized under
8 the laws of the State of Washington.

9 152. Bellevue relies on a number of federal grant programs to serve its approximately
10 160,000 residents and support the economic vitality of the Puget Sound Region. Bellevue receives
11 HUD funding through the CDBG program, including \$879,477 approved and expected for FY
12 2025. This funding will support vital programs such as a home repair assistance program and
13 public services to homeless individuals in the community. Bellevue was also awarded \$500,000
14 for FY 2024 through HUD’s Community Project Funding.

15 153. Bellevue receives approximately \$4 million in direct funding from DOT and
16 FHWA for FY 2024 and earlier grants, and relies on its ability to continue to draw down on these
17 funds to improve roadway safety in the region through road safety audits, speed studies,
18 developing separated bike lanes, supporting traffic signal enhancements for pedestrians and
19 bicyclists, and developing speed safety camera procedures. Bellevue has also been awarded almost
20 \$34 million in pass-through funding for FY 2025–2027 from DOT and FHWA through regional
21 and state grant programs. This funding provides vital financial support to transportation projects
22 supporting pedestrian accessibility and safety, as well as local and regional trails and bridges.
23 Bellevue is also receiving over \$26 million in DOT pass-through funding for FY 2024 and earlier.

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1 154. Bellevue brings this action as to the unlawful HUD Grant Conditions and unlawful
2 DOT Grant Conditions.

3 155. Plaintiff City of Bellingham (“Bellingham”) is a municipal corporation organized
4 and existing under the laws of the State of Washington.

5 156. Bellingham, through its Planning and Community Development Department,
6 Housing and Services Program, receives approximately \$1,323,865 in HUD funds for its CDBG
7 and HOME programs. CDBG funds provide basic needs services, including food distribution,
8 basic chore assistance for homebound seniors and disabled persons, support for children who have
9 experienced violence or neglect, and domestic violence prevention for the benefit of low-income
10 individuals and households. CDBG funds also provide home rehabilitation, and community
11 facilities improvements for the benefit of low-income households and individuals. HOME funds
12 provide housing services, including rental assistance, housing case management, downpayment
13 assistance for first-time homebuyers, and capital development for affordable housing to benefit
14 low-income individuals and households.

15 157. Bellingham also receives approximately \$4.3 million annually in federal funding
16 from DOT and its OAs, almost exclusively as a pass-through from Washington State DOT.
17 Further, Bellingham’s Police Department has just applied for \$3 million in DOT Safe Streets and
18 Roads for All (SS4A) funding to implement a program to prevent traffic deaths.

19 158. Bellingham brings the action as to the unlawful HUD Grant Conditions and the
20 unlawful DOT Grant Conditions.

21 159. Plaintiff City of Bremerton (“Bremerton”) is a first-class charter city organized and
22 existing under the laws of the State of Washington.

23 160. Bremerton, through its Department of Community Development, receives and
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1 administers approximately \$381,000 in HUD CDBG funds to assist in community development
2 capital improvements, home weatherization, and job training programs. Bremerton also receives
3 approximately \$212,000 in HUD HOME grants to assist in the development of housing.

4 161. Bremerton relies on DOT formula and discretionary grants administered through
5 FHWA for transportation infrastructure projects, as both a direct recipient and subrecipient,
6 including \$3.3 million in FHWA grant funds through Fiscal Year 2028 and additional grants
7 expected.
8

9 162. Bremerton brings the action as to the unlawful HUD Grant Conditions and the
10 unlawful DOT Grant Conditions.

11 163. Plaintiff County of Dane (“Dane County”) is a political subdivision organized and
12 operating under the laws of the State of Wisconsin.
13

14 164. Dane County relies on approximately \$1,670,021 each year in HUD CoC grant
15 funds to serve its homeless residents. Dane County receives another approximately \$7,789,468 in
16 HUD grant funding through the CDBG and HOME programs.

17 165. Dane County’s Department of Human Services also relies on millions of dollars in
18 funding from HHS, including \$13,735,370 from Social Services Block Grants and \$1,554,631
19 from Child Care and Development Block Grants. These funds are used to support child welfare,
20 services for older adults and individuals with disabilities, and child care assistance for low-income
21 families. Dane County also uses \$1,831,770 of HHS funding to support Area Agency on Aging
22 supportive services, nutrition and meals programs, family caregiver support, and disease
23 prevention.
24

25 166. Additionally, Dane County receives approximately \$15 million annually in FAA
26 grants to fund improvements at the Dane County Regional Airport, and approximately \$400,000
27

1 in FHWA grant funds from the DOT for a Comprehensive Highway Safety Action Plan.

2 167. Dane County brings this action to challenge the unlawful HUD Grant Conditions,
3 unlawful DOT Grant Conditions, and unlawful HHS Grant Conditions.

4 168. Plaintiff City of Eugene (“Eugene”) is a home rule charter city organized and
5 existing under and by virtue of the constitution and laws of the State of Oregon.
6

7 169. Through FY 2023–2027, Eugene received, or expects to receive, over \$61 million
8 in DOT grants administered by the FHWA for transportation and infrastructure projects that
9 benefit Eugene residents, businesses, and visitors. As the sponsor of the Eugene Airport, Eugene
10 also receives approximately \$9.2 million in annual DOT grants for airport operations and, between
11 2025–2029, expects to receive more than \$49 million in additional DOT funding for programmed
12 airport infrastructure projects.
13

14 170. Eugene also relies on HUD CDBG and HOME grants to further local housing
15 opportunities. For FY 2025, HUD has confirmed Eugene’s eligibility for CDBG formula grants of
16 \$1,483,454 and, as the lead agency for the Eugene-Springfield HOME Consortium, an additional
17 \$1,150,062 in HOME formula grants on behalf of consortium members.

18 171. Eugene also receives millions in federal assistance through HHS to fund critical
19 public health initiatives.
20

21 172. Eugene brings the action as to the unlawful HUD Grant Conditions, the unlawful
22 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

23 173. Plaintiff City of Healdsburg (“Healdsburg”) is a municipal corporation and general
24 law city organized and existing under and by virtue of the laws of the State of California.

25 174. Healdsburg has current grant agreements for approximately \$861,820 in DOT
26 funds supporting infrastructure projects improving the streets in Healdsburg to contribute to the
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safety and well-being of drivers and pedestrians who live in and visit Healdsburg. In addition, Healdsburg anticipates receiving approximately \$2.2 million in DOT grants to help fund two large projects upgrading streets throughout Healdsburg to improve the safety and public health of all community members; without these funds, Healdsburg cannot complete these projects. Healdsburg also regularly receives DOT and FAA grant funding for maintenance and improvements at the Healdsburg Municipal Airport, which is used for private aviation, as well as for staging, landing and take-off by firefighters and other emergency personnel for emergency events in all of Sonoma County. Healdsburg has submitted DOT grant applications and received a preliminary notice of approval for nearly \$600,000 for critical improvements and rehabilitation of the airport runways.

175. Healdsburg brings this action only as to the unlawful DOT Grant Conditions.

176. Plaintiff County of Hennepin (“Hennepin County”) is a political subdivision of the State of Minnesota.

177. Hennepin County’s calendar year 2025 budget includes \$271,751,382 in direct federal funding. Of this amount, Hennepin County budgeted \$16,812,799 from HUD to fund services such as emergency shelter, rapid rehousing, and lead abatement in homes; \$15,838,367 from DOT to fund various road projects; and \$136,093,272 in non-Medicaid funds from HHS for critical safety net services and to administer federal programs. Hennepin County receives additional federal funding, including from HUD, DOT, and HHS, through grants administered by the State of Minnesota and its political subdivisions.

178. Hennepin County brings this action as to the unlawful HUD Grant Conditions, the unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

179. Plaintiff Kitsap County is a county organized and existing under and by virtue of the constitution and laws of the State of Washington.

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1 180. Kitsap County relies on \$1.76 million annually (as of 2025) in HUD CDBG and
2 HOME funds—\$1,093,594 in CDBG and \$668,553 in HOME—to support services for low- and
3 very low-income households. These funds are used for downpayment assistance, creation and
4 preservation of affordable rental housing, homeownership rehabilitation and weatherization, food
5 banks, childcare and afterschool programs, and microenterprise business assistance.
6

7 181. In addition, Kitsap County’s Transportation Improvement Program for 2025–2030
8 identifies \$68.9 million in total federal transportation grant funding, including \$5.26 million in
9 currently obligated grants, \$35.16 million in awarded but not yet obligated funding, and \$28.5
10 million in anticipated future awards. These DOT funds, representing approximately 47% of the
11 county’s Transportation Improvement Program budget, support critical infrastructure projects,
12 pedestrian and vehicle safety improvements, and revitalization initiatives in underserved areas.
13

14 182. Kitsap County brings the action as to both the unlawful HUD Conditions and the
15 unlawful DOT Grant Conditions.

16 183. Plaintiff City of Los Angeles (“Los Angeles”) is a charter city and municipal
17 corporation organized and existing under the constitution and laws of the State of California and
18 the Los Angeles City Charter. Los Angeles is home to nearly 4 million people and hosts about 50
19 million visitors per year.
20

21 184. Los Angeles is relying on nearly \$100 million in HUD grants to address the housing
22 and community development needs of the city’s most vulnerable populations, specifically through
23 CDBG, HOME, ESG, and HOPWA funding. These programs provide emergency shelter and
24 support for low- and moderate-income individuals at risk of falling into homelessness, which is of
25 paramount importance to Los Angeles’ ongoing response to the homelessness crisis.

26 185. Los Angeles also counts on federal funding to operate, maintain, and improve its
27
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1 vital transportation systems to serve the needs of its residents and visitors. In 2024, Los Angeles
2 received \$127.5 million in federal DOT grants which were used to operate and maintain the city's
3 airports, including Los Angeles International Airport, and to make necessary safety and efficiency
4 improvements and enhancements to this vital international hub. For 2025 and future years, DOT
5 has awarded, but not yet obligated, more than \$55 million to Los Angeles for its airports, and a
6 request for more than \$65 million in grant funding is pending. Los Angeles has also been awarded
7 over \$124 million in obligated FTA grants, and has been allocated \$72,964,700 in FTA formula
8 grants for fiscal years 2020 through 2025.

10 186. Los Angeles brings this action as to the unlawful HUD Grant Conditions and the
11 unlawful DOT Grant Conditions.

12 187. Plaintiff City of Milwaukee ("Milwaukee") is a municipal corporation organized
13 and existing under the laws of the State of Wisconsin.

14 188. Based on information prepared for Milwaukee's 2024 Single Audit Report,
15 Milwaukee administers approximately \$206 million direct, active HUD grant awards. These funds
16 are used, for example, for affordable housing, emergency housing, continuum of care services, and
17 housing for people with HIV/AIDS, and lead hazard reduction.

18 189. Based on departmental records, Milwaukee currently administers approximately
19 \$16 million in direct, active grant awards from HHS, and while the number fluctuates, currently
20 another \$11 million federal pass-through HHS funds. These funds are used, for example, to
21 manage health disparities, expand public health infrastructure, respond and prepare for infectious
22 disease, prevent violence, and advance health literacy.

23 190. Based on information prepared for Milwaukee's 2024 Single Audit Report,
24 Milwaukee administers approximately \$74 million direct, active grant awards from DOT. Based

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1 on departmental records, Milwaukee also administers between approximately \$25 million to \$65
2 million annually in DOT pass through funding. These funds support highway planning and
3 construction, refuse packing, public transportation, traffic speed and safety enforcement, and
4 addressing impaired driving. The Port of Milwaukee also administers a subset of these DOT funds
5 for port infrastructure work.
6

7 191. Milwaukee brings the action as to the unlawful HUD Grant Conditions, the
8 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

9 192. Plaintiff Milwaukee County is a municipal body corporate and political subdivision
10 organized and existing under the laws of the State of Wisconsin.

11 193. Milwaukee County, through its Department of Transportation, owns and operates
12 the Milwaukee Mitchell International Airport (“MKE”). MKE is the largest airport in Wisconsin,
13 with approximately 6.3 million passengers traveling from MKE in 2024. Milwaukee County relies
14 on substantial federal grant funding for critical capital projects at MKE to serve the traveling
15 public. These needs are both long-term and immediate. For example, in federal fiscal years 2025
16 and 2026, Milwaukee County’s plan of financing is premised on federal grants providing over \$57
17 million in capital funding for projects including terminal redevelopment and airfield rehabilitation
18 and improvements.
19

20 194. Milwaukee County brings the action only as to the unlawful DOT Grant Conditions.
21

22 195. Plaintiff Multnomah County is a charter home rule county organized under the laws
23 of the State of Oregon.

24 196. Multnomah County relies on over \$39 million each year in HUD CoC grant funds,
25 that flow either directly to Multnomah County’s Homeless Services Department or to community
26 nonprofit providers, to house nearly 2,500 individuals and operate the county’s homeless services
27

1 infrastructure. These grant funds are critical to supporting the 15,000 unhoused residents of
2 Multnomah County with rental assistance and supportive services.

3 197. Multnomah County's Department of Community Services also receives federal
4 DOT dollars, directly and through pass-through/intergovernmental agreements. For FY 2025
5 Multnomah County budgeted for approximately \$8 million in DOT grant funds to fund capital
6 improvements to roads and bridges and for planning of upcoming renovation of the Burnside
7 Bridge. For FY 2026, Multnomah County has budgeted for \$25.6 million in DOT grant funds.

9 198. Multnomah County funds its clinical operations and programs using HHS grant
10 funds, in particular through HRSA grants. For FY 2025, Multnomah County has approximately
11 \$13 million in active HRSA grants, the majority of which are dedicated to operating the
12 Community Health Centers that provide safety net medical services to vulnerable residents.

14 199. Multnomah County brings the action as to the unlawful HUD Grant Conditions, the
15 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

17 200. Plaintiff City of Oakland ("Oakland") is a charter city formed under the California
18 Constitution, with a population of approximately 440,000 people.

19 201. More than 5,000 residents of Oakland are homeless. Oakland relies, in part, on
20 federal funds, including CoC grants, to attempt to alleviate this problem. In 2025 and 2026,
21 Oakland has been awarded \$5.4 million in CoC grants for leasing shelter for homeless persons,
22 administering the HMIS, providing supportive services, and providing rental assistance, among
23 other services. Further, in fiscal year 2024–2025, Oakland departments received over \$14 million
24 in HUD formula grant awards, including CDBG, HOME, HOPWA, and ESG funds, to support
25 affordable housing homelessness response efforts and other community development activities. In
26 fiscal year 2025–2026, Oakland has been awarded over \$14 million from these same HUD formula

1 grants. Oakland also receives a \$7 million one-time award from the competitive PRO Housing
2 HUD grant program to support the development of affordable housing over multiple years.

3 202. Through the Oakland Department of Transportation (“OakDOT”), Oakland
4 envisions, plans, builds, operates, and maintains the city’s transportation system. To do so, it relies
5 in part on millions of dollars in federal funding from DOT OAs, such as the FHWA and FTA.
6 OakDOT was competitively awarded approximately \$13.8 million as part of DOT’s 2021 RAISE
7 Grant Program to make street improvements, and \$1 million from the DOT’s 2024 Safe Streets
8 and Roads for All program, and has applied for an additional \$5 million from the 2025 Safe Streets
9 and Roads for All program.
10

11 203. Oakland relies on millions of dollars per year from HHS, including through its
12 Human Services Department, which receives over \$13 million dollars per year in direct HHS funds
13 for HEAD Start. In addition, Oakland also currently receives \$1 million dollars per year for each
14 of the five fiscal years 2021–2026 in HHS funds (through SAMHSA) to fund the ReCAST Project,
15 which improves behavioral health outcomes and access to evidenced-based promising practices
16 for high risk youth and families most impacted by civil unrest and violence.
17

18 204. Oakland brings this action as to the unlawful HUD Grant Conditions, the unlawful
19 DOT Grant Conditions, and the unlawful HHS Grant Conditions.
20

21 205. Plaintiff City of Pacifica (“Pacifica”) is a municipal corporation and general law
22 city organized and existing under and by virtue of the laws of the State of California.

23 206. Pacifica receives approximately \$110,000 in funds from DOT, passed through the
24 State of California Office of Traffic Safety and National Highway Traffic Safety Administration
25 (NHTSA), for traffic enforcement/safety support programs and services. Pacifica is also currently
26 applying for a \$3.5 million grant from DOT to support key planning and infrastructure to prevent
27

1 death and serious injury on roads and streets involving all roadway users, including pedestrians,
2 bicyclists, public transportation, personal conveyance, and micromobility users, motorists, and
3 commercial vehicle operators.

4 207. Additionally, Pacifica receives over \$500,000 from HHS for programs and services
5 that assist its low-income and marginalized communities, including senior transportation, meals
6 on wheels, and childcare support.

7 208. Pacifica brings this action as to the unlawful DOT Grant Conditions and the
8 unlawful HHS Grant Conditions.

9 209. Plaintiff the City of Petaluma (“Petaluma”) is a municipal corporation existing
10 under and by virtue of the constitution and laws of the State of California. Petaluma is a charter
11 city.

12 210. FTA currently has committed a total of \$10,002,326 for Petaluma programs,
13 including transit facility improvements, paratransit and fixed-route transit vehicles, and paratransit
14 operations. Petaluma also expects \$3,362,690 from FAA for Petaluma programs, including airport
15 taxiway, runway, and hangar ramp rehabilitation and other improvements.

16 211. Petaluma has current direct HUD awards equal to or exceeding \$2,335,254 for
17 resiliency center, back-up generator, sea level rise mapping, and building seismic retrofit disaster
18 mitigation projects. Petaluma also receives at least \$240,000 as a member of Sonoma County’s
19 Continuum of Care. This funding supports mental health services for sheltered and unsheltered
20 persons, and street outreach programs for chronically unsheltered persons.

21 212. Petaluma brings this action as to the unlawful HUD Grant Conditions and the
22 unlawful DOT Grant Conditions.

23 213. Plaintiff Ramsey County is a political subdivision of the State of Minnesota, with
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1 its county seat in Saint Paul.

2 214. Ramsey County receives over \$70 million annually from HHS in both direct and
3 pass-through awards to, among other programs, help families avoid involvement with the child
4 welfare system, serve justice-involved and unsheltered people with substance use disorder and
5 mental health conditions, and provide wrap-around sexual health services to low-income families.
6

7 215. Ramsey County also receives over \$2.5 million annually from HUD, both directly
8 and as a subrecipient, including for the CDBG, HOME, and PRO Housing programs, some of
9 which fund the rehabilitation of group homes for people with disabilities and other affordable
10 housing. Ramsey County is also a collaborative applicant and the lead agency for Heading Home
11 Ramsey, Ramsey County's Continuum of Care, which receives over \$8 million in HUD funding
12 per grant cycle to assist those at risk of or experiencing homelessness.
13

14 216. Finally, the federal DOT has awarded over \$40 million in funding to Ramsey
15 County as a subrecipient for current and upcoming projects, including Public Works bridge and
16 road improvements and multi-use trail development by Parks and Recreation.

17 217. Ramsey County brings the action as to the unlawful HUD Grant Conditions, the
18 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.

19 218. Plaintiff the City of Rochester ("Rochester") is a municipal entity organized and
20 existing under and by virtue of the laws of the State of New York.
21

22 219. A significant portion of Rochester's budget is derived from federal funds. Those
23 federal dollars deliver critical resources to some of the most at-risk members of its community.
24 For example, in the calendar year 2024, Rochester received awards of \$12,388,321 in HUD funds.
25 That included a \$8,201,087 CDBG grant and \$1,132,150 in HOPWA funds. Those HOPWA funds
26 provided for subsidies and support services to 148 households that have at least one person living
27

1 with HIV/AIDS.

2 220. Rochester also received \$8,465,163 from DOT in the fiscal year ending June 30,
3 2024, which included \$52,828 in Pedestrian Safety Program funds.

4 221. In the 2023–2024 fiscal year, Rochester received \$596,896 in HHS funds which
5 covered pregnancy prevention grants and sexual risk avoidance grants.
6

7 222. Rochester brings the action as to the unlawful HUD Grant Conditions, the unlawful
8 DOT Grant Conditions, and the unlawful HHS Grant Conditions.

9 223. Plaintiff City of Rohnert Park (“Rohnert Park”) is a municipal corporation, general
10 law city, organized and existing under and by virtue of the laws of the State of California.

11 224. Rohnert Park receives approximately \$3.4 million in DOT funds administered by
12 FHWA. Rohnert Park is currently applying for \$840,000 from DOT under the SS4A program for
13 roadway safety through the Sonoma County Transportation & Climate Authorities (“SCTCA”) to
14 support key planning and infrastructure. In addition to SS4A, in August 2025, Rohnert Park will
15 submit funding applications to SCTCA for \$21 million, funded in part by FHWA grants, for traffic
16 safety and infrastructure improvements.
17

18 225. Rohnert Park brings this action only as to the unlawful DOT Grant Conditions.

19 226. Plaintiff City of San Diego (“San Diego”) is a municipal corporation and charter
20 city organized and existing under and by virtue of the laws of the State of California.
21

22 227. San Diego is a direct recipient of approximately \$225 million in active HUD grant
23 funding to support a wide range of housing and community development initiatives. San Diego
24 anticipates receiving an additional \$25 million in HUD funding. By way of example, San Diego
25 uses HUD funding through the CDBG, HOME, and ESG programs to create affordable housing,
26 provide rental assistance, and address homelessness in the region. San Diego also depends on other
27

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1 HUD grants to develop and improve libraries, community centers, and parks, subsidize childcare
2 costs, manage energy costs for residents, and support mobile solar panel electric vehicle charging
3 systems to increase its share of zero-emissions vehicles.

4 228. Additionally, San Diego relies on around \$137 million in awarded DOT grants
5 administered by FHWA as a direct recipient or subrecipient. San Diego anticipates receiving an
6 additional \$73 million in DOT funding. FHWA funds primarily support San Diego's key capital
7 improvement projects, which involve substantial undertakings that often span several years to
8 improve critical infrastructure, such as bridge rehabilitation and street repairs.

9 229. San Diego brings the action as to the unlawful HUD Grant Conditions and the
10 unlawful DOT Grant Conditions.

11 230. Plaintiff County of San Mateo ("San Mateo County") is a charter county and
12 political subdivision of the State of California.

13 231. San Mateo County administers millions of dollars each year in federal funding from
14 HUD, DOT, and HHS. With respect to HUD grant funds, San Mateo County Continuum of Care
15 was awarded approximately \$14 million in grant funding in HUD CoC funds to serve the region's
16 approximately 1,800 homeless residents. Additionally, San Mateo County expects to receive
17 approximately \$3,774,761 million in HUD grant funding through the CDBG, HOME, and ESG
18 programs.

19 232. San Mateo County's Department of Public Works ("DPW") also relies heavily on
20 significant federal funding from FAA for projects like runway repair and airport upgrades/airfield
21 work. Without federal funding it would be difficult to maintain or improve local airports.
22 Moreover, DPW relies on FHWA and DOT funding for road repair and bridge projects among
23 other roadway infrastructure projects. DPW currently has approximately \$2.4 million in awarded

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1 federal funds.

2 233. In addition to the HUD and DOT funding, San Mateo County annually receives
3 tens of millions of dollars from HHS for critical public services, including TANF, foster care
4 programming, and public health initiatives. These public health initiatives include disease control
5 and prevention, treatment of substance-use disorders, provision of services to persons with serious
6 mental illnesses, and programming that supports maternal and infant well-being. For example,
7 each year, San Mateo County receives approximately \$2.8 million from HRSA to provide medical,
8 dental, and behavioral health services to about 3,800 individuals experiencing homelessness and
9 1,000 farmworkers and their family members.
10

11 234. San Mateo County brings the action as to the unlawful HUD Grant Conditions, the
12 unlawful DOT Grant Conditions, and the unlawful HHS Grant Conditions.
13

14 235. Plaintiff City of Santa Rosa (“Santa Rosa”) is a municipal corporation and charter
15 city organized and existing under and by virtue of the laws of the State of California.

16 236. Santa Rosa receives a total of more than \$24 million in federal funds from DOT
17 and approximately \$5.8 million in federal funds from HUD. These funds ensure ongoing
18 maintenance of Santa Rosa’s transit system, including maintenance of city streets, replacement of
19 its aging buses, funding of transit employee positions, and support to public safety and wildfire
20 prevention initiatives and important homelessness and housing insecurity programs.
21

22 237. Santa Rosa brings the action as to the unlawful HUD Grant Conditions and the
23 unlawful DOT Grant Conditions.

24 238. Plaintiff City of Watsonville (“Watsonville”) is a municipal corporation and
25 general law city organized and existing under and by virtue of the laws of the State of California.

26 239. Watsonville receives approximately \$1.1 million in DOT funds administered by
27
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1 FAA, FHWA, and NHTSA. FHWA and NHTSA funds support public safety programs to reduce
2 the number of persons killed and injured in crashes involving alcohol and other primary crash
3 factors; efforts related to traffic enforcement and public awareness in areas with a high number of
4 bicycle and pedestrian crashes; and the Safe Routes to School initiatives and Safe System
5 Approach to prevent fatalities and injuries of vulnerable non-motorized road users. Additionally,
6 DOT FAA grants support the Watsonville Airport, and fund services related to public health
7 emergencies at the airport, including reimbursement of costs related to operations, personnel,
8 cleaning sanitation, and personal protective equipment for combating the spread of pathogens.
9 Further, FAA Zero Emissions Vehicle program grants fund the Watsonville Airport's efforts to
10 improve airport air quality and facilitate the use of zero-emissions technologies.
11

12 240. Watsonville receives a Community Development Block (CDBG) Grant from HUD
13 totaling \$634,804 which funds services and program for youth center staffing, code enforcement,
14 small business assistance, Ramsay Park and housing program administration funds.
15

16 241. Watsonville brings this action only as to the unlawful HUD Grant Conditions and
17 DOT Grant Conditions.

18 242. Plaintiff Culver City Housing Authority ("CCHA") is a public body corporate and
19 politic organized and existing under the California Health and Safety Code Sections 34200, *et seq.*
20

21 243. CCHA has been appropriated or awarded approximately \$1.3 million in Section 8
22 funds from HUD for FY 2025–26.

23 244. CCHA brings this action as to the unlawful HUD Grant Conditions.

24 245. Plaintiff Puget Sound Regional Council ("PSRC") is a regional planning agency
25 formed under Washington's Interlocal Cooperation Act, Revised Code of Washington chapter
26 39.34, and has been designated the metropolitan planning organization for King, Kitsap, Pierce,
27

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1 and Snohomish counties pursuant to 23 U.S.C. § 134 and 49 U.S.C. § 5303.

2 246. PSRC members currently include the four counties, 77 cities and towns, four port
3 districts, the region's transit agencies, WSDOT, the Washington Transportation Commission, the
4 Muckleshoot Indian Tribe, the Puyallup Tribe of Indians, the Suquamish Tribe, and the Tulalip
5 Tribes. PSRC develops long-range transportation plans and transportation improvement programs
6 for its planning area to guide the funding and development of future transportation projects. PSRC
7 relies on more than \$32 million in DOT grants, including more than \$9 million in FTA grants and
8 more than \$22 million in FHWA grants, some of which are passed through from WSDOT.

9
10 247. PSRC brings the action only as to the unlawful DOT Grant Conditions.

11 248. Plaintiff Sonoma County Transportation Authority ("SCTA") was created by
12 County of Sonoma Board of Supervisors Resolution No. 90-1522 on August 7, 1990, pursuant to
13 California Public Utilities Code section 180000, otherwise known as the Local Transportation
14 Authority and Improvement Act, and acts as the countywide planning and fund programming
15 agency for transportation and performs a variety of important functions related to advocacy,
16 project management, planning, finance, grant administration and research.

17
18 249. SCTA receives federal transportation funding from DOT. Annually, SCTA is a
19 subrecipient of federal transportation planning funds administered through the CalTrans based on
20 CalTrans' delegated authority from the FHWA. SCTA, in partnership with the cities of Santa Rosa,
21 Petaluma, Rohnert Park, Cotati, and the Town of Windsor has been awarded \$4,580,000 in 2024
22 from FHWA's Safe Streets and Roads For All program. These funds will be used to deliver
23 demonstration activities and complete a supplemental planning project related to transportation
24 safety.

25
26 250. SCTA brings the action only as to the unlawful DOT Grant Conditions.

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1 251. Sonoma County Community Development Commission (“SCCDC”) is a public
2 entity, formed in 1984 pursuant to California Health and Safety Code section 34110, et seq.
3 SCCDC oversees affordable housing and community infrastructure projects and supports non-
4 profit organizations that serve low-income populations in Sonoma County. To date, SCCDC has
5 assisted in the development and preservation of 3,352 affordable housing units through local, state,
6 and federal grants.
7

8 252. Since its inception, SCCDC has had a long history of partnering with HUD,
9 leveraging federal grants to improve the lives of low-income households in Sonoma County
10 through the provision of funds to aid in development of affordable housing, funds for critical
11 community services, and rental assistance paid to private property owners on behalf of low-income
12 tenants. Additionally, federal grants assist in the improvement of public infrastructure systems and
13 support the local economies in Sonoma County by providing assistance to small business entities.
14 SCCDC receives and administers HUD funded programs, including four primary grant sources:
15 CDBG, HOME, ESG, and the housing choice voucher program. For FY 2025–2026, these HUD
16 funds have been allocated to various eligible projects and activities, including affordable rental
17 housing projects, a micro-enterprise entity, a public water infrastructure project, and service
18 providers to support homeless populations, including households at-risk of becoming homeless.
19

20 253. SCCDC brings this brings the action only as to the unlawful HUD Grant
21 Conditions.
22

23 254. Defendant Scott Turner is the Secretary of HUD, the highest ranking official in
24 HUD, and responsible for the decisions of HUD. He is sued in his official capacity.

25 255. Defendant HUD is an executive department of the United States federal
26 government. 42 U.S.C. § 3532(a). HUD is an “agency” within the meaning of the APA. 5 U.S.C.
27
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1 § 551(1).

2 256. Defendant Sean Duffy is the Secretary of DOT, the highest ranking official in DOT,
3 and responsible for the decisions of DOT. He is sued in his official capacity.

4 257. Defendant DOT is an executive department of the United States federal
5 government. 49 U.S.C. § 102(a). It houses a number of operating administrations, including the
6 FTA, FHWA, FAA, and FRA. DOT is an “agency” within the meaning of the APA. 5 U.S.C.
7 § 551(1).

8 258. Defendant Tariq Bokhari is the acting Administrator of the FTA, the highest
9 ranking official in the FTA, and responsible for the decisions of the FTA. He is sued in his official
10 capacity.

11 259. Defendant FTA is an operating administration within DOT. 49 U.S.C. § 107(a).
12 FTA is an “agency” within the meaning of the APA. 5 U.S.C. § 551(1).

13 260. Defendant Gloria M. Shepherd is the acting Director of the FHWA, the highest
14 ranking official in the FHWA, and responsible for the decisions of the FHWA. She is sued in her
15 official capacity.

16 261. Defendant FHWA is an operating administration within DOT. 49 U.S.C. § 104(a).
17 FHWA is an “agency” within the meaning of the APA. 5 U.S.C. § 551(1).

18 262. Defendant Chris Rocheleau is the acting Administrator of the FAA, the highest
19 ranking official in the FAA, and responsible for the decisions of the FAA. He is sued in his official
20 capacity.

21 263. Defendant FAA is an operating administration within DOT. 49 U.S.C. § 106(a).
22 FAA is an “agency” within the meaning of the APA. 5 U.S.C. § 551(1).

23 264. Defendant Drew Feeley is the acting Administrator of the FRA, the highest ranking
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27 SECOND AMENDED COMPLAINT FOR
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1 official in the FRA, and responsible for the decisions of the FRA. He is sued in his official capacity.

2 265. Defendant FRA is an operating administration within DOT. 49 U.S.C. § 103(a).
3 FRA is an “agency” within the meaning of the APA. 5 U.S.C. § 551(1).

4 266. Defendant Robert F. Kennedy, Jr. is the Secretary of HHS, the highest ranking
5 official in HHS, and responsible for the decisions of HHS. He is sued in his official capacity.

6 267. Defendant HHS is an executive department of the United States federal
7 government. 42 U.S.C. § 3501. HHS is an “agency” within the meaning of the APA. 5 U.S.C.
8 § 551(1).
9

10 IV. FACTUAL ALLEGATIONS

11 A. HUD Grant Programs

12 268. Congress established HUD in 1965 to promote the “sound development of the
13 Nation’s communities and metropolitan areas” by, among other things, administering programs
14 that “provide assistance for housing” and “development.” Department of Housing and Urban
15 Development Act, 1965 § 2, Pub. L. 89-175, 79 Stat. 667. HUD administers both competitive and
16 formula grant programs. Competitive grant programs “allocate[] a limited pool of funds to state
17 and local applicants whose applications are approved by” a federal agency. *City of Los Angeles v.*
18 *Barr*, 929 F.3d 1163, 1169 (9th Cir. 2019). Entitlement grant programs (sometimes referred to as
19 formula grant programs) “are awarded pursuant to a statutory formula” wherein “Congress
20 determines who the recipients are and how much money each shall receive.” *City of Los Angeles*
21 *v. McLaughlin*, 865 F.2d 1084, 1088 (9th Cir. 1989) (cleaned up). HUD administers grants directly
22 and through its program offices, including the Office of Community Planning & Development
23 (CPD), and regional field offices. *See* 24 C.F.R. subchapter C (CPD-administered programs); *id.*
24 § 982.101 (allocating budget authority for Section 8 Housing Choice Voucher program to field
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1 offices).

2 **1. Continuum of Care Grant Program**

3 **a.) *Congress Authorizes the Establishment of the Continuum of Care***
 4 ***Program through the McKinney-Vento Homeless Assistance Act***

5 269. Congress enacted the McKinney-Vento Homeless Assistance Act (the “Homeless
 6 Assistance Act”) “to meet the critically urgent needs of the homeless of the Nation” and “to assist
 7 the homeless, with special emphasis on elderly persons, handicapped persons, families with
 8 children, Native Americans, and veterans.” 42 U.S.C. § 11301(b).

9 270. Among the programs Congress established through subsequent amendments to the
 10 Homeless Assistance Act is the Continuum of Care (CoC) program. *Id.* §§ 11381–89. The CoC
 11 program is designed to promote a community-wide commitment to the goal of ending
 12 homelessness; to provide funding for efforts by nonprofit providers and state and local
 13 governments to quickly rehouse homeless individuals and families; to promote access to, and
 14 effective utilization of, mainstream programs by homeless individuals and families; and to
 15 optimize self-sufficiency among those experiencing homelessness. *Id.* § 11381.

16 271. The Homeless Assistance Act directs the Secretary of HUD (the “HUD Secretary”)
 17 to award CoC grants on a competitive basis using statutorily prescribed selection criteria. *Id.*
 18 § 11382(a). These grants fund critical homelessness services administered by grant recipients
 19 either directly or through service providers contracted by the grant recipient. The CoC program
 20 funds a variety of programs that support homeless individuals and families, including through the
 21 construction of supportive housing, rehousing support, rental assistance, and supportive services,
 22 including child care, job training, healthcare, mental health services, trauma counseling, and life
 23 skills training. *Id.* §§ 11360(29), 11383.

272. Grants are awarded to local coalitions, or “Continuums,” that may include representatives from local governments, nonprofits, faith-based organizations, advocacy groups, public housing agencies, universities, and other stakeholders. 24 C.F.R. § 578.3. Each Continuum designates an applicant to apply for CoC funding on behalf of the Continuum. *Id.*

b.) Congress Imposes Legislative Directives, and HUD Promulgates Rules, Regarding CoC Grant Conditions

273. HUD’s administration of the CoC program, including the award of CoC grants, is authorized and governed by statutory directives. Congress has specified what activities are eligible for funding under the CoC program, the selection criteria HUD must apply in awarding CoC grants, and program requirements HUD can require recipients agree to as conditions for receiving funds. *See* 42 U.S.C. §§ 11383, 11386, 11386a.

274. Section 422 of the Homeless Assistance Act, 42 U.S.C. § 11382, contains Congress’s overarching authorization for HUD to award CoC grants. Subsection (A) of that section states:

The Secretary shall award grants, on a competitive basis, and using the selection criteria described in section 11386a of this title, to carry out eligible activities under this part for projects that meet the program requirements under section 11386 of this title, either by directly awarding funds to project sponsors or by awarding funds to unified funding agencies.

275. Section 427 of the Homeless Assistance Act, 42 U.S.C. § 11386a, provides for the HUD Secretary to establish selection criteria to evaluate grant applications and sets forth specific criteria the HUD Secretary must use. These required criteria include things like the recipient’s previous performance in addressing homelessness, whether the recipient has demonstrated coordination with other public and private entities serving homeless individuals, and the need within the geographic area for homeless services. *Id.* (b)(1)–(2).

276. Section 426 of the Homeless Assistance Act, 42 U.S.C. § 11386, sets forth “[r]equired agreements” to which grant recipients must adhere. Recipients must agree to, among other things, “monitor and report to the [HUD] Secretary the progress of the project,” “take the educational needs of children into account when families are placed in emergency or transitional shelter,” “place families with children as close as possible to their school of origin,” and obtain various certifications from direct service providers. 42 U.S.C. § 11386(b).

277. The Homeless Assistance Act does not authorize HUD to condition CoC funding on opposition to all forms of Diversity, Equity, and Inclusion (DEI) policies and initiatives through the guise of federal nondiscrimination law, nor on participating in aggressive and lawless immigration enforcement, exclusion of transgender people, or cutting off access to information about lawful abortions.

278. Congress has authorized the Secretary to promulgate regulations establishing, *inter alia*, other selection criteria and “other terms and conditions” on grant funding “to carry out [the CoC program] in an effective and efficient manner.” *Id.* §§ 11386(b)(8), 11386a(b)(1)(G), 11387.

279. Pursuant to this authority, HUD has promulgated the Continuum of Care Program rule at 24 C.F.R. part 578 (the “CoC Rule”), which, among other things, sets forth additional conditions to which grant recipients must agree in the CoC grant agreements they execute with HUD. *Id.* § 578.23(c). While the CoC Rule permits HUD to require CoC recipients to comply with additional “terms and conditions,” such terms and conditions must be “establish[ed] by” a Notice of Funding Opportunity (NOFO).² *Id.* § 578.23(c)(12).

² The terms NOFO, “Notice of Funding Availability,” and “Funding Opportunity Announcement” refer to a formal announcement of the availability of federal funding. As part of an effort to standardize terminology, most federal agencies now use the term NOFO. For clarity, this Complaint uses the term NOFO.

1 280. The CoC Rule does not impose any conditions on CoC funding related to
 2 prohibiting all kinds of DEI, facilitating enforcement of federal immigration laws, verification of
 3 immigration status, or prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”
 4 Congress has not delegated authority that would permit an agency to adopt such conditions.

5
 6 ***c.) Congress Appropriates CoC Grant Funding and Authorizes
 HUD to Issue a NOFO for Fiscal Years 2024 and 2025***

7 281. Funding for CoC grants comes from congressional discretionary appropriations.

8 282. Most recently, Congress appropriated funds for the CoC program in the
 9 Consolidated Appropriations Act, 2024, Pub. L. 118-42, 138 Stat. 25 (the “2024 Appropriations
 10 Act”).
 11

12 283. The 2024 Appropriations Act contains additional directives to HUD regarding CoC
 13 funding. For instance, it requires the Secretary to “prioritize funding . . . to continuums of care that
 14 have demonstrated a capacity to reallocate funding from lower performing projects to higher
 15 performing projects,” and requires the Secretary to “provide incentives to create projects that
 16 coordinate with housing providers and healthcare organizations to provide permanent supportive
 17 housing and rapid re-housing services.” *Id.*, 138 Stat. 362–363.
 18

19 284. The 2024 Appropriations Act also authorized HUD to issue a two-year NOFO for
 20 Fiscal Years 2024 and 2025 program funding. *Id.*, 138 Stat. 386.

21 285. By statute, the HUD Secretary must announce recipients within five months after
 22 the submission of applications for funding in response to the NOFO. 42 U.S.C. § 11382(c)(2).
 23

24 286. The HUD Secretary’s announcement is a “conditional award,” in that the recipient
 25 must meet “all requirements for the obligation of those funds, including site control, matching
 26 funds, and environmental review requirements.” *Id.* § 11382(d)(1)(A).
 27

287. Once the recipient meets those requirements, HUD must obligate the funds within 45 days. *Id.* § 11382(d)(2) (providing that “the Secretary shall obligate the funds”).

288. None of the 2024 Appropriations Act’s directives to HUD or any other legislation authorize HUD to impose CoC grant fund conditions related to prohibiting all kinds of DEI, facilitating enforcement of federal immigration laws, verification of immigration status, or prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”

d.) HUD Conditionally Awards CoC Grants to CoC Plaintiffs

289. In July 2024, HUD posted a biennial NOFO announcing a competition for CoC funding for Fiscal Years 2024 and 2025 (the “FYs 2024 & 2025 NOFO”). *See* U.S. Dep’t of Housing & Urban Dev., Notice of Funding Opportunity for FY 2024 and FY 2025 Continuum of Care Competition and Renewal or Replacement of Youth Homeless Demonstration Program (Jul. 24, 2024), https://www.hud.gov/sites/dfiles/CPD/documents/FY2024_FY2025_CoC_and_YHDP_NOFO_FR-6800-N-25.pdf.

290. The FYs 2024 & 2025 NOFO directed Continuums to consider policy priorities in their applications, including “Racial Equity” and “Improving Assistance to LGBTQ+ Individuals.” *Id.* at 9. The FYs 2024 & 2025 NOFO specified that “HUD is emphasizing system and program changes to address racial equity within CoCs and projects. Responses to preventing and ending homelessness should address racial inequities” *Id.* The FYs 2024 & 2025 NOFO further specified that “CoC should address the needs of LGBTQ+, transgender, gender non-conforming, and non-binary individuals and families in their planning processes. Additionally, when considering which projects to select in their local competition to be included in their application to HUD, CoCs should ensure that all projects provide privacy, respect, safety, and access regardless of gender identity or sexual orientation.” *Id.*

291. The NOFO did not include any grant conditions related to prohibiting all kinds of DEI, facilitating enforcement of federal immigration laws, verifying immigration status, or prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”

292. Existing plaintiffs King County, Pierce County, Snohomish County, San Francisco, Santa Clara, Boston, Columbus, NYC, Nashville, Pima County, Cambridge, Pasadena, San José, Tucson, King County RHA, and Santa Monica HA, as well as plaintiffs Alameda County, Albuquerque, Baltimore, Dane County, Hennepin County, Milwaukee, Multnomah County, Oakland, Petaluma, Ramsey County, San Mateo County, and Sonoma County (collectively, the “CoC Plaintiffs”), in coordination with or as part of their respective Continuums, developed their applications in compliance with the FYs 2024 & 2025 NOFO’s stated policy priorities. Each CoC Plaintiff Continuum timely submitted its application in response to the FYs 2024 & 2025 NOFO.

293. On January 17, 2025, HUD announced the conditional award list for FY 2024, which included each of the CoC Plaintiffs.

e.) CoC Plaintiffs Rely on CoC Grants to Serve their Homeless Residents

294. Tens of thousands of individuals and families experiencing homelessness live within CoC Plaintiffs’ geographical limits. Many of these individuals rely on services provided by CoC Plaintiffs with funding from the CoC program to access rapid rehousing (which provides short-term rental assistance), permanent and transitional housing services, and case management that supports linkages to healthcare, job training, and other resources that facilitate their ability to obtain and keep their housing.

295. CoC Plaintiffs historically have applied annually for CoC funds on behalf of Continuums that include representatives from local governments, nonprofits, faith-based

1 organizations, advocacy groups, public housing agencies, universities, and/or other stakeholders.
2 Grant awards are currently distributed to scores of programs serving homeless individuals and
3 families in each of CoC Plaintiffs' jurisdictions.

4 296. CoC grants support permanent supportive housing programs, which provide long-
5 term, affordable housing combined with supportive services for individuals and families
6 experiencing, or at risk of, homelessness. These programs allow participating individuals and
7 families to live independently and stably in their communities.
8

9 297. CoC grants also support rapid rehousing programs, which help individuals and
10 families exit homelessness and return quickly to permanent housing. Rapid rehousing is a key
11 component of CoC Plaintiffs' response to homelessness because it connects people to housing as
12 quickly as possible by providing temporary financial assistance and other supportive services like
13 housing search and stability case management.
14

15 298. Other programs funded by CoC grants include transitional housing programs that
16 provide temporary, short-term housing for homeless individuals and families who require a bridge
17 to permanent housing; supportive services, which include things like conducting outreach to
18 homeless individuals and families and providing referrals to housing or other needed resources;
19 and operation of systems for collecting and managing data on the provision of housing and services
20 to program participants.
21

22 299. Thousands of CoC Plaintiffs' residents experiencing, or at risk of, homelessness
23 rely on these programs and others funded by the CoC program. The loss of CoC funding threatens
24 the ability of CoC Plaintiffs to provide critical programs and would result in program participants
25 losing their housing and being unable to access services they have relied on to achieve and maintain
26 stability and independence.

300. For FY 2024, HUD conditionally awarded CoC Plaintiffs hundreds of millions of dollars in CoC grants to continue homelessness assistance programs, ensuring CoC Plaintiffs' ability to serve their residents so they would not experience a sudden drop off in the availability of housing services, permanent and transitional housing, and other assistance.

301. In reliance on these awards, many CoC Plaintiffs have already notified service providers of forthcoming funding and/or contracted with service providers for homelessness assistance services.

2. Community Development Block Grant Program

302. Congress established the Community Development Block Grant (CDBG) program through Title I of the Housing and Community Development Act of 1974 (the "HCD Act"), Pub. L. 93-383, 88 Stat. 633, and subsequent amendments. The program's stated "primary objective" is to promote "development of viable urban communities" through "decent housing," a "suitable living environment," and "expan[sion of] economic opportunities, principally for persons of low and moderate income." 42 U.S.C. § 5301(c). Specific objectives include "conserv[ing] and expan[ding] the Nation's housing stock" especially for low- and moderate-income households, promoting mixed-income communities, and enhancing the "diversity and vitality of neighborhoods" by eliminating slums or blight and revitalizing "deteriorating or deteriorated neighborhoods," among other goals. *Id.* § 5301(c)(1), (c)(3), (c)(6).

303. The CDBG program is codified at title 42, chapter 69 of the U.S. Code. The program provides flexible funding through annual block grants awarded on a formula basis to state and local governments for purposes related to economic and community development. In enacting the program, Congress consolidated "a number of complex and overlapping" grant programs such that funding would be provided "on an annual basis, with maximum certainty and minimum

1 delay,” and communities could “rely [on funding] in their planning.” *Id.* § 5301(d). The HCD Act
 2 permits communities to tailor program activities to meet local needs so long as they advance
 3 national objectives identified by Congress, including benefiting low- and moderate-income
 4 persons, preventing or eliminating slums or blight, or, in certain cases, responding to serious and
 5 immediate threats to community health or welfare where other funds are unavailable. *Id.*
 6 §§ 5301(c), 5304(b)(4).
 7

8 304. The HCD Act authorizes the HUD Secretary to award CDBG funds using
 9 statutorily prescribed selection criteria. 42 U.S.C. §§ 5303–04. The HUD Secretary must distribute
 10 funds annually using a formula that considers population and measures of distress including
 11 poverty, age of housing, housing overcrowding, and growth lag. *Id.* §§ 5303–04, 5306. These
 12 grants fund vital urban community development projects and public services administered by grant
 13 recipients either directly or through service providers contracted by the grant recipient. *See id.*
 14 § 5305 (listing activities eligible for assistance).
 15

16 ***a.) Congress Imposes Legislative Directives, and HUD Promulgates***
 17 ***Rules, Regarding CDBG Grant Conditions***

18 305. HUD’s administration of the CDBG program, including the award of block grants,
 19 is authorized and governed by statutory directives. Congress has specified what activities are
 20 eligible for funding under the CDBG program, the selection criteria HUD must apply in awarding
 21 CDBG grants, and program requirements HUD can require recipients agree to as conditions for
 22 receiving funds. *See* 42 U.S.C. §§ 5301, 5304–05.
 23

24 306. Section 103 of the HCD Act, *id.* § 5303, contains Congress’s overarching
 25 authorization to award CDBG funding. That provision states in relevant part: “The Secretary is
 26 authorized to make grants to States, units of general local government, and Indian tribes to carry
 27

1 out activities in accordance with the provisions of this chapter.”

2 307. In addition to the statutory objectives and allocation formula discussed above,
3 Congress has imposed other requirements on CDBG funds. For instance, 42 U.S.C. § 5305 limits
4 the use of CDBG funds to enumerated eligible activities. The HCD Act also mandates that
5 recipients use at least 70% of CDBG funds on activities that principally benefit low- and moderate-
6 income persons, *id.* § 5301(c), and prescribes eligibility criteria for such activities, *id.* § 5305(c).
7 Grant recipients must also submit annual plans to the HUD Secretary describing their priority
8 nonhousing community development needs eligible for CDBG funding pursuant to procedures set
9 out in the HCD Act. *Id.* § 5304(m). Finally, Congress has enumerated various certifications that
10 CDBG recipients must make as a condition of receiving funds, including that the recipient will
11 develop and follow a citizen participation plan, comply with statutory transparency requirements,
12 ensure funds are consistent with the HCD Act’s objectives, and administer programs in conformity
13 with nondiscrimination laws. *Id.* § 5304(a)(3), (b).
14
15

16 308. The HCD Act does not authorize HUD to condition CDBG funding on opposition
17 to all forms of DEI policies and initiatives through the guise of federal nondiscrimination law, nor
18 on participating in aggressive and lawless immigration enforcement, verification of immigration
19 status, exclusion of transgender people, or cutting off access to information about lawful abortions.
20

21 309. The HCD Act indicates congressional intent to benefit historically disadvantaged
22 groups. For example, the Act *requires* the Secretary to set aside some of the funds appropriated
23 for the CDBG program for “special purpose grants,” which may include, among other things,
24 grants to “historically Black colleges.” 42 U.S.C. § 5307(b)(2). The Act further provides that, of
25 the amount set aside for special purpose grants, the Secretary “shall” make grants to institutions
26 of higher education “for the purpose of providing assistance to economically disadvantaged and
27

1 minority students who participate in community development work study programs and are
 2 enrolled in” qualifying degree programs. *Id.* § 5307(c). The Act also authorizes urban development
 3 action grants to cities and urban counties experiencing severe economic distress, but only if the
 4 HUD Secretary determines the city or county has “demonstrated results in,” among other things,
 5 “providing equal opportunity in housing and employment for low- and moderate-income persons
 6 and members of minority groups.” *Id.* § 5318(a)–(b).

8 310. Congress has authorized the HUD Secretary to promulgate “rules and regulations”
 9 necessary to carrying out the Secretary’s “functions, powers, and duties.” 42 U.S.C. § 3535(d).

10 311. Pursuant to this authority, HUD has promulgated the CDBG program rule at 24
 11 C.F.R. part 570 (the “CDBG Rule”), which, among other things, imposes additional restrictions
 12 on the use of CDBG funds. *See* 24 C.F.R. § 570.207. The CDBG Rule also obligates grant
 13 recipients to submit annual consolidated plans in accordance with 24 C.F.R. part 91. 24 C.F.R.
 14 § 570.302. These annual consolidated plans must include additional certifications enumerated in
 15 HUD regulations, including that the recipient complies with lead-based paint procedures and has
 16 policies barring the use of excessive force against non-violent civil rights demonstrators. 24 C.F.R.
 17 § 91.225.

19 312. The CDBG Rule does not impose any conditions on CDBG funding related to
 20 prohibiting all forms of DEI policies and initiatives through the guise of federal nondiscrimination
 21 law, participating in aggressive and lawless immigration enforcement, verification of immigration
 22 status, opposing transgender acceptance, or cutting off access to information about lawful
 23 abortions.

25 ***b.) Congress Appropriates CDBG Grant Funding***

26 313. Funding for CDBG grants comes from congressional discretionary appropriations.

314. Most recently, Congress appropriated funds for the CDBG program in the 2024 Appropriations Act. The 2024 Appropriations Act contains additional directives to HUD regarding CDBG funding. For instance, it requires that no more than 20% of any grant under the CDBG program may be expended for certain planning and administrative purposes and imposes limitations on funds provided to for-profit entities. 138 Stat. 358–59.

315. None of the 2024 Appropriations Act’s directives to HUD or any other legislation authorize HUD to impose CDBG grant conditions related to prohibiting all kinds of DEI, facilitating enforcement of federal immigration laws, verification of immigration status, or prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”

3. Emergency Solutions Grant Program

a.) Congress Authorizes the Establishment of the Emergency Solutions Grant Program Through the HEARTH Act

316. In 2009, Congress established the Emergency Solutions Grant (ESG) program through the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act, Pub. L. 111-22, 123 Stat. 1663. *See* 42 U.S.C. §§ 11371–11378. In enacting the HEARTH Act, Congress sought to remedy the “lack of affordable housing and limited scale of housing assistance programs” that it found to be “the primary causes of homelessness” and “establish a Federal goal of ensuring that individuals and families who become homeless return to permanent housing within 30 days.” HEARTH Act, § 1002, 123 Stat. 1664.

317. The HEARTH Act amended the Homeless Assistance Act to expand what had been known as the Emergency Shelter Grant program, which provided formula funding to state and local governments for the short-term needs of homeless individuals. Reflecting a broadened focus on factors that lead to homelessness, the HEARTH Act expanded the activities eligible for funding

1 under the new ESG program to include short- or medium-term rental assistance and housing
 2 relocation and stabilization services, in addition to emergency shelters, homelessness prevention,
 3 and supportive services, which had been covered under the original program. *See* 42 U.S.C. §
 4 11374(a).

5
 6 318. The Homeless Assistance Act, as amended by the HEARTH Act, directs the
 7 Secretary of HUD to award ESG grants to cities, urban counties, and states on a non-competitive
 8 basis using HUD's formula for allocating CDBG funds, discussed above. *Id.* §§ 11372, 11373(a).
 9 These grants fund programs that address the most critical and immediate needs of those
 10 experiencing or at risk of homelessness, including programs for preventing homelessness,
 11 immediately rehousing individuals who become homeless, and providing emergency shelter to
 12 those experiencing homelessness. *Id.* § 11374(a).

13
 14 ***b.) Congress Imposes Legislative Directives, and HUD Promulgates
 Rules, Regarding ESG Grant Conditions***

15 319. HUD's administration of the ESG program, including the award of ESG funds, is
 16 authorized and governed by statutory directives. Congress has specified what activities are eligible
 17 for funding under the ESG program, the responsibilities of ESG recipients, and specific
 18 certifications ESG recipients must agree to as a condition of receiving funds. *Id.* §§ 11374(a),
 19 11375.

20
 21 320. Congress's overarching direction to HUD to award ESG grants is codified at 42
 22 U.S.C. § 11372, which provides:

23 The Secretary shall make grants to States and local governments
 24 (and to private nonprofit organizations providing assistance to
 25 persons experiencing homelessness or at risk of homelessness, in the
 26 case of grants made with reallocated amounts) for the purpose of
 carrying out activities described in section 11374 of this title.

1 321. Section 11374 of Title 42 limits the activities for which ESG funds may be used to
2 specific services: maintaining, operating, or renovating emergency shelters; providing supportive
3 services related to emergency shelter or street outreach; paying short- or medium-term rental
4 assistance; and providing housing relocation or stabilization services for homeless or at-risk
5 individuals and families.

6
7 322. Section 11375 of Title 42 sets forth certifications that recipients must make to the
8 Secretary of HUD regarding their use of ESG funds. Recipients must certify that, among other
9 things, they will operate facilities that receive funding as homeless shelters for a specified number
10 of years, any ESG-funded renovation will be sufficient to ensure the shelter is safe and sanitary,
11 they will assist homeless individuals in obtaining permanent housing and services such as medical
12 and mental health treatment and counseling, and they will involve homeless individuals and
13 families through employment, volunteer services, or otherwise, in constructing and operating
14 shelters to the maximum extent practicable. 42 U.S.C. § 11375(c).

15
16 323. The HEARTH Act does not authorize HUD to condition ESG funding on
17 opposition to all forms of DEI policies and initiatives through the guise of federal
18 nondiscrimination law, nor on participating in aggressive and lawless immigration enforcement,
19 verification of immigration status, exclusion of transgender people, or cutting off access to
20 information about lawful abortions.

21
22 324. Section 11376 of Title 42 authorizes the Secretary of HUD “by notice” to “establish
23 such requirements as may be necessary to carry out the provisions of” the ESG program. “Such
24 requirements shall be subject to section 553 of title 5,” which requires rulemaking to occur
25 pursuant to notice and comment procedures. 42 U.S.C. § 11376.

26 325. Pursuant to this authority, HUD has promulgated the ESG Rule at 24 C.F.R. part
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1 576, which sets forth additional requirements and conditions on ESG funding. *See* 24 C.F.R. §§
2 576.400–576.409. For instance, the ESG Rule requires ESG recipients to meet minimum safety,
3 sanitation, and privacy standards for emergency shelters; integrate ESG services with other
4 programs targeted to homeless individuals in the area; coordinate with local Continuums; conduct
5 initial evaluations of program participants consistent with HUD requirements; and abide by
6 recordkeeping and reporting requirements. *Id.* §§ 576.400, 576.401, 576.403(b), 576.500.

8 326. The ESG Rule also obligates ESG recipients to submit and obtain HUD approval
9 of a consolidated plan in accordance with the requirements in 24 C.F.R. part 91. *Id.* § 576.200.
10 HUD’s consolidated planning regulations set forth additional certifications that must be included
11 in a consolidated plan, including that the jurisdiction will affirmatively further fair housing, is in
12 compliance with anti-lobbying requirements, and possesses the legal authority to carry out
13 programs for which it is seeking funding, among other certifications. *Id.* § 91.225(a).

15 327. Neither the ESG Rule nor HUD’s consolidated planning regulations impose any
16 conditions on ESG funding related to prohibiting all kinds of DEI, facilitating enforcement of
17 federal immigration laws, verification of immigration status, or prohibiting the “promot[ion]” of
18 “gender ideology” or “elective abortion.” Congress has not delegated authority that would permit
19 an agency to adopt such conditions.

21 328. Funding for the ESG program comes from congressional discretionary
22 appropriations.

23 329. Most recently, Congress appropriated funds for the ESG program in the 2024
24 Appropriations Act, 138 Stat. at 362.

25 330. Nothing in the 2024 Appropriations Act or any other legislation authorizes HUD to
26 impose ESG grant fund conditions related to prohibiting all kinds of DEI, facilitating enforcement

1 of federal immigration laws, verification of immigration status, or prohibiting the “promot[ion]”
 2 of “gender ideology” or “elective abortion.”

3 **4. HOME Investment Partnerships Program**

4 331. Congress established the HOME program through the HOME Investment
 5 Partnerships Act (HOME Act), under Title II of the Cranston-Gonzalez National Affordable
 6 Housing Act (NAHA), Pub. L. No. 101–625, 104 Stat. 4079, and subsequent amendments. The
 7 HOME program is a formula grant program that aims to help state and local governments
 8 implement local housing strategies to increase affordable housing opportunities for low-income
 9 families. The HOME program requires the HUD Secretary “to make funds available to
 10 participating jurisdictions for investment to increase the number of families served with decent,
 11 safe, sanitary, and affordable housing and expand the long-term supply of affordable housing.” 42
 12 U.S.C. §§ 12741, 12747(b).
 13

14 332. Participating jurisdictions may use HOME grants for a variety of housing activities.
 15 These include providing “incentives to develop and support affordable rental housing and
 16 homeownership affordability through the acquisition, new construction, reconstruction, or
 17 moderate or substantial rehabilitation of affordable housing.” *Id.* § 12742(a)(1).
 18

19 333. Participating jurisdictions must allocate matching funds to affordable housing
 20 projects equivalent to at least 25 percent of the HOME funds the jurisdictions use. *Id.* § 12750.
 21

22 **a.) Congress Imposes Legislative Directives, and HUD Promulgates 23 Rules, Regarding HOME Grant Conditions**

24 334. HUD’s administration of the HOME program is authorized and governed by
 25 statutory directives. The HOME Act specifies the eligibility requirements to become a
 26 participating jurisdiction, the permissible and prohibited uses of HOME funds, the maximum
 27

1 incomes of families who may receive HOME funds, and what housing qualifies as affordable for
2 purposes of the program. *Id.* §§ 12742, 12744, 12475, 12476.

3 335. The HOME Act does not grant HUD discretion in designating which jurisdictions
4 may participate and under what circumstances those jurisdictions shall receive HOME funds. It
5 instead directs the HUD Secretary to establish by regulation the statutorily specified procedures
6 with which states and local governments must comply to be designated as participating
7 jurisdictions and receive allocations of HOME funds. *Id.* § 12746. The HOME Act provides that
8 such regulations “shall *only* provide for the” requirements for allocation, eligibility, notification,
9 submission, reallocation, revocation, and reduction of funds listed in the statute. *Id.* § 12746(1)–
10 (10) (emphasis added). Once a jurisdiction meets the statutory formula and complies with the listed
11 requirements, HUD “*shall* designate” it “a participating jurisdiction” and the jurisdiction “shall
12 remain a participating jurisdiction for subsequent fiscal years” unless certain revocation conditions
13 are met. *Id.* § 12746(7)–(8) (emphasis added).

14 336. The HOME Act further directs the HUD Secretary to “establish by regulation an
15 allocation formula that reflects each jurisdiction’s share of total need among eligible jurisdiction[s]
16 for an increased supply of affordable housing for very low-income and low-income families of
17 different size.” *Id.* § 12747(b)(1)(A). This formula must be based on the “objective measures”
18 specified in the HOME Act. *Id.*

19 337. The Home Act further directs the HUD Secretary to establish a HOME Investment
20 Trust Fund for each participating jurisdiction, along with a line of credit that includes the
21 participating jurisdiction’s allocated HOME funds. *Id.* § 12748(a)–(b).

22 338. As directed by Congress, HUD promulgated the HOME program rule at 24 C.F.R.
23 part 92 (the “HOME Rule”). The HOME Rule implements the allocation formula prescribed by
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27

1 Congress, along with the eligibility and related requirements listed in the HOME Act. *See, e.g.*, 24
2 C.F.R. §§ 92.50, 92.102–07, 92.150, 92.200–22. The HOME Rule also lists other federal
3 requirements with which participating jurisdictions must comply, including the nondiscrimination
4 requirements that apply to all HUD Programs, listed at 24 C.F.R. § 5.105(a), as well as the
5 nondiscrimination requirements in the HOME Act, 42 U.S.C. § 12832, addressed below. 24 C.F.R.
6 § 92.350.
7

8 339. Neither Congress nor HUD’s regulations authorize HUD to condition HOME
9 funding on opposition to all forms of DEI policies and initiatives through the guise of federal
10 nondiscrimination law, nor on participating in aggressive and lawless immigration enforcement,
11 verification of immigration status, exclusion of transgender people, or cutting off access to
12 information about lawful abortions.
13

14 340. NAHA and the HOME Act indicate congressional intent to benefit historically
15 disadvantaged groups. One of Congress’s objectives in enacting NAHA was to “improve housing
16 opportunities for all residents of the United States, particularly members of disadvantaged
17 minorities, on a nondiscriminatory basis.” 42 U.S.C. § 12702(3). The HOME Act requires
18 participating jurisdictions “to establish and oversee a minority outreach program . . . to ensure the
19 inclusion, to the maximum extent possible, of minorities and women, and entities owned by
20 minorities and women . . . in all contracts[] entered into by the participating jurisdiction . . . to
21 provide affordable housing authorized under this Act.” 42 U.S.C. § 12831(a). The HOME Act also
22 forbids participating jurisdictions from denying benefits to or otherwise discriminating against any
23 person “on the grounds of race, color, national origin, religion, or sex.” 42 U.S.C. § 12832.
24

25 341. In January 2025, HUD issued a final rule amending the HOME Rule “to update,
26 simplify, or streamline requirements, better align the program with other Federal housing
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1 programs, and implement recent amendments to the HOME statute.” HOME Investment
 2 Partnerships Program: Program Updates and Streamlining, 90 Fed. Reg. 746, 746 (Jan. 6, 2025).
 3 The revised HOME Rule does not add any grant conditions related to DEI, immigration
 4 enforcement, verification of immigration status, “gender ideology,” or abortion. The revised
 5 HOME Rule was originally set to become effective February 5, 2025, but HUD delayed parts of
 6 the Rule until October 2025. HOME Investment Partnerships Program: Program Updates and
 7 Streamlining—Delay of Effective Date, Withdrawal, and Correction, 90 Fed. Reg. 16085 (Apr.
 8 17, 2025).

10 ***b.) Congress Appropriates HOME Grant Funding***

11 342. Funding for the HOME program comes from congressional discretionary
 12 appropriations.

13 343. Most recently, Congress appropriated \$1,250,000,000 for the HOME program in
 14 the 2024 Appropriations Act. 38 Stat. 360. The 2024 Appropriations Act contains additional
 15 directives to HUD regarding HOME funding. For instance, it extends the statutory deadline for
 16 participating jurisdictions to draw funds from their HOME Investment Trust Fund. *Id.*

17 344. None of the 2024 Appropriations Act’s directives to HUD or any other legislation
 18 authorize HUD to impose HOME grant conditions related to prohibiting all kinds of DEI,
 19 facilitating enforcement of federal immigration laws, verification of immigration status, or
 20 prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”

21 **5. The Housing Opportunities for Persons with AIDS Program**

22 345. Congress established the Housing Opportunities for Persons with AIDS (HOPWA)
 23 program through the AIDS Housing Opportunity Act, Subtitle D of Title VIII of NAHA, Pub. L.
 24 No. 101–625, 104 Stat. 4079, and subsequent amendments. The objective of the HOPWA program

1 is to “to provide States and localities with the resources and incentives to devise long-term
 2 comprehensive strategies for meeting the housing needs of persons with acquired
 3 immunodeficiency syndrome and families of such persons.” 42 U.S.C. § 12901. To meet this aim,
 4 the program authorizes formula grants and competitively awarded grants to provide housing
 5 assistance and related supportive services to meet the housing needs of low-income persons living
 6 with HIV or AIDS and their families.
 7

8 346. The HOPWA program permits grant recipients to use HOPWA funds for a number
 9 of housing programs for persons living with HIV or AIDS, including providing information and
 10 services, short-term housing, rental assistance, development of single room occupancy dwellings,
 11 and development and operation of community residences. *Id.* §§ 12906–910.
 12

13 347. Ninety percent of HOPWA funds must be allocated pursuant to a statutory formula
 14 based on total population, the number of persons living with HIV or AIDS, fair market rents, and
 15 poverty data. *Id.* § 12903(c)(1)(A). The HUD Secretary must award the remaining 10 percent of
 16 grant funds on a competitive basis to states and local governments not eligible for a formula grant,
 17 or to states, local governments, or nonprofits seeking funding for “special projects of national
 18 significance.” *Id.* § 12903(c)(5)(A), (C).
 19

20 ***a.) Congress Imposes Legislative Directives, and HUD Promulgates
 Rules Regarding HOPWA Grant Conditions***

21 348. To be eligible for HOPWA funds, states and local governments must submit an
 22 application for the HUD Secretary’s approval. *Id.* § 12903(d). Congress instructed the HUD
 23 Secretary to establish by regulation procedures for the submission of applications using specified
 24 requirements. *Id.* § 12903(d)(1)–(6). Congress also permitted the HUD Secretary to require “other
 25 information or certifications” but only to the extent “necessary to achieve the purposes of this
 26

1 section,” *i.e.*, to award formula and competitive grants pursuant to the statutorily listed criteria. *Id.*
2 § 12903(d)(6).

3 349. Pursuant to this authority, HUD promulgated the HOPWA program rule at 24
4 C.F.R. part 574 (the “HOPWA Rule”). The HOPWA Rule implements the allocation formula
5 prescribed in the statute, as well as the permissible uses of HOPWA funds. 24 C.F.R. §§ 574.110,
6 130, 300. The Rule also creates an application process for competitive grants, requiring
7 applications “comply with the provisions of the Department’s Notice of Funding Availability
8 (NOFA) for the fiscal year.” *Id.* § 574.240. The HOPWA Rule also sets out conditions grantees
9 and project sponsors must agree to, including compliance with HUD regulations and “such other
10 terms and conditions . . . as HUD may establish for purposes of carrying out the program *in an*
11 *effective and efficient manner.*” *Id.* § 574.500 (emphasis added). The HOPWA Rule further lists
12 other federal requirements with which participating jurisdictions must comply, including the
13 nondiscrimination requirements that apply to all HUD programs listed at 24 C.F.R. § 5.105(a). 24
14 C.F.R. § 574.603

15 350. Neither NAHA nor the HOPWA Rule permit HUD to condition HOPWA funding
16 on opposition to all forms of DEI policies and initiatives through the guise of federal
17 nondiscrimination law, nor on participating in aggressive and lawless immigration enforcement,
18 verification of immigration status, exclusion of transgender people, or cutting off access to
19 information about lawful abortions.

20 351. As discussed above, NAHA, which established the HOPWA program, indicates
21 congressional intent to benefit historically disadvantaged groups, including the aim to “improve
22 housing opportunities for . . . members of disadvantaged minorities.” 42 U.S.C. § 12702(3).

b.) Congress Appropriates HOPWA Grant Funding

352. Funding for HOPWA grants comes from congressional discretionary appropriations. *See id.* § 12912.

353. Most recently, Congress appropriated \$505,000,000 for the HOPWA program in the 2024 Appropriations Act. 38 Stat. 358. The 2024 Appropriations Act contains additional directives to HUD regarding HOPWA funding. For instance, it instructs HUD to “renew or replace all expiring contracts for permanent supportive housing . . . before awarding funds for new contracts.” *Id.*

354. None of the 2024 Appropriations Act’s directives to HUD or any other legislation authorize HUD to impose HOPWA grant conditions related to prohibiting all kinds of DEI, facilitating enforcement of federal immigration laws, verification of immigration status, or prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”

6. Numerous Plaintiffs Rely on HUD Block Grants to Serve their Communities

355. Numerous plaintiffs rely on HUD block grant programs, including the block programs described above (CDBG, ESG, HOME, and HOPWA), to provide decent, affordable housing and a suitable living environment, and to increase economic opportunities for low- and moderate-income persons throughout their jurisdictions. The programs that these grants support are extensive and essential. These funds are used for programs like the creation and preservation of affordable rental housing, homeownership rehabilitation and weatherization, food banks, childcare and afterschool programs, community development capital improvements, home weatherization, and job training programs. They help those plaintiffs provide basic needs services, including food distribution, basic chore assistance for homebound seniors and disabled persons,

1 support for children who have experienced violence or neglect, and domestic violence prevention
 2 for the benefit of low-income individuals and households. They also help those plaintiffs provide
 3 housing services, including rental assistance, housing case management, downpayment assistance
 4 for first-time homebuyers, and capital development for affordable housing to benefit low-income
 5 individuals and households and to create affordable housing, provide rental assistance, and address
 6 homelessness in the region. They help prevent and address homelessness, including by supporting
 7 emergency shelter services. HOPWA funds provide for subsidies and support services to
 8 households that have at least one person living with HIV/AIDS.

10 **7. Other HUD Grants**

11 356. HUD and its program offices administer a range of other competitive and formula
 12 grant programs that some plaintiffs have previously received, currently receive, or are otherwise
 13 eligible to receive. Plaintiffs are not aware of Congress ever imposing or authorizing directives for
 14 or conditions on these other HUD grants related to a prohibition on all kinds of DEI, facilitating
 15 enforcement of immigration laws, verification of immigration status, or prohibiting the
 16 “promot[ion]” of “gender ideology” or “elective abortion.”

18 357. Congress annually appropriates funding for HUD grant programs. In the annual
 19 appropriations legislation, Congress sets forth priorities and directives to the Secretary of HUD
 20 with respect to funding. Plaintiffs are not aware of Congress ever imposing or authorizing
 21 directives for or conditions on HUD grants related to a prohibition on all kinds of DEI, facilitating
 22 enforcement of immigration laws, verification of immigration status, or prohibiting the
 23 “promot[ion]” of “gender ideology” or “elective abortion.” *See, e.g.*, Consolidated Appropriations
 24 Act, 2021, Pub. L. 116-260, 134 Stat. 1865–1902; Consolidated Appropriations Act, 2022, Pub.
 25 L. 117-103, 136 Stat. 725–766; Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat.

5139–5181; Consolidated Appropriations Act, 2024, Pub. L. 118-42, 138 Stat. 344–386.

358. Plaintiffs King County, Pierce County, Snohomish County, Boston, Columbus, San Francisco, Santa Clara, NYC, Bend, Cambridge, Chicago, Culver City, Minneapolis, Nashville, Pasadena, Pima County, Pittsburgh, Portland, San José, Santa Monica, Tucson, King County RHA, Santa Monica HA, Alameda County, Albuquerque, Baltimore, Bellevue, Bellingham, Bremerton, Dane County, Eugene, Hennepin County, Kitsap County, Los Angeles, Milwaukee, Multnomah County, Oakland, Petaluma, Ramsey County, Rochester, San Diego, San Mateo County, Santa Rosa, Sonoma County, Watsonville, CCHA, and SCCDC (collectively, the “HUD Plaintiffs”) have previously received, currently receive, or are otherwise eligible to receive HUD grants, including CoC grants, CDBG grants, ESG grants, HOME grants, HOPWA grants, and/or other HUD grant funding. These Plaintiffs rely on over \$2.5 billion in appropriated federal funds from HUD grant programs, including for homelessness, housing, and development-related projects and programs undertaken for the benefit of their communities.

B. DOT Grant Programs

359. Congress established DOT in 1966 “to assure the coordinated, effective administration of the transportation programs of the Federal Government.” Department of Transportation Act, 1966, Pub. L. 89-670, 80 Stat. 931. DOT administers both competitive and formula grant programs. In administering grant programs, DOT often acts through its operating administrations, including the FTA, FHWA, FAA, and FRA. By law, the DOT Secretary is responsible for all acts taken by its operating administrations and the administrators of the FTA, FHWA, FAA, and FRA report directly to the DOT Secretary. 49 U.S.C. §§ 103(b), (d), (g)(1) (FRA); 104(b)(1), (c)(1) (FHWA); 106(b)(1)(E), (f)(3)(A) (FAA); 107(b), (c) (FTA); *see also* 49 C.F.R. Part 1 (organization and authority of DOT).

1 **1. FTA Grant Programs**

2 360. Congress has established by statute a wide variety of grant programs administered
3 by DOT, acting through the FTA, that provide federal funds to state and local governments for
4 public transit services. These include, but are not limited to, programs codified in title 49, chapter
5 53 of the U.S. Code, as amended by the Fixing America's Surface Transportation (FAST) Act of
6 2015, Pub. L. 114-94, 129 Stat. 1312, and the Infrastructure Investment and Jobs Act of 2021, Pub.
7 L. 117-58, 135 Stat. 429.
8

9 361. For instance, section 5307 authorizes the Secretary of DOT (the "DOT Secretary")
10 to make urbanized area formula grants ("UA Formula Grants"), which go toward funding the
11 operating costs of public transit facilities and equipment in urban areas, as well as certain capital,
12 planning, and other transit-related projects. *See* 49 U.S.C. § 5307(a)(1). Section 5307 imposes
13 specific requirements on UA Formula Grant recipients related to the recipient's operation and
14 control of public transit systems. *See id.* § 5307(c). None of these requirements pertain to a
15 prohibition on all kinds of DEI or facilitating enforcement of federal immigration laws.
16

17 362. Section 5309 establishes certain fixed guideway capital investment grants ("Fixed
18 Guideway Grants"). *See* 49 U.S.C. § 5309(b). This program funds certain state and local
19 government projects that develop and improve "fixed guideway" systems—meaning public transit
20 systems that operate on a fixed right-of-way, such as rail, passenger ferry, or bus rapid transit
21 systems. *Id.* §§ 5302(8), 5309(b). Section 5309 imposes specific requirements on Fixed Guideway
22 Grant recipients related to, for example, the recipient's capacity to carry out the project, maintain
23 its equipment and facilities, and achieve budget, cost, and ridership outcomes. *See id.* § 5309(c).
24 None of these requirements pertain to a prohibition on all kinds of DEI or facilitating enforcement
25 of federal immigration laws.
26

1 363. Section 5337 authorizes grants to fund state and local government capital projects
2 that maintain public transit systems in a state of good repair, as well as competitive grants for
3 replacement of rail rolling stock (“Repair Grants”). *See* 49 U.S.C. § 5337(b), (f). Section 5337
4 specifically limits what projects may be eligible for Repair Grants, *id.* § 5337(b), and imposes
5 specific requirements on multi-year agreements for competitive rail vehicle replacement grants,
6 *id.* § 5337(f)(7). It does not, however, impose any conditions on Repair Grants related to a
7 prohibition on all kinds of DEI or facilitating enforcement of federal immigration laws.
8

9 364. Section 5339 authorizes grants to fund the purchase and maintenance of buses and
10 bus facilities (“Bus Grants”). *See* 49 U.S.C. § 5339(a)(2), (b), (c). The Bus Grant program
11 incorporates the specific funding requirements set forth in section 5307 for UA Formula Grants
12 and imposes other requirements on Bus Grant recipients. *See id.* § 5339(a)(3), (7), (b)(6), (c)(3).
13 Section 5339 does not, however, impose any conditions on Bus Grants related to a prohibition on
14 all kinds of DEI or local participation in enforcement of federal immigration laws.
15

16 365. Congress annually appropriates funding for FTA grant programs, including the four
17 identified above. In the annual appropriations legislation, Congress sets forth priorities and
18 directives to the DOT Secretary with respect to transportation funding. Plaintiffs are not aware of
19 Congress ever imposing or authorizing directives for or conditions on FTA grants related to a
20 prohibition on DEI or local participation in federal immigration enforcement. *See, e.g.,*
21 Consolidated Appropriations Act, 2021, Pub. L. 116-260, 134 Stat. 1182, 1854; Consolidated
22 Appropriations Act, 2022, Pub. L. 117-103, 136 Stat. 716, 724; Consolidated Appropriations Act,
23 2023, Pub. L. 117-328, 136 Stat. 5129, 5138; Consolidated Appropriations Act, 2024, Pub. L. 118-
24 42, 138 Stat. 334, 342.
25
26
27

2. FHWA Grant Programs

366. Congress has established by statute a variety of grant programs administered by DOT, acting through the FHWA, that provide federal funds to state and local governments for road and street infrastructure projects. These include, but are not limited to, programs codified in title 23 of the U.S. Code and the Infrastructure Investment and Jobs Act of 2021, Pub. L. 117-58, 135 Stat. 429.

367. For instance, Section 24112(b) of the Infrastructure Investment and Jobs Act, established Safe Streets and Roads for All, or SS4A, a competitive grant program that provides funding for improving roadway safety through the development, refinement, and subsequent implementation of comprehensive safety action plans. 135 Stat. 815–817. The Act requires the DOT Secretary to consider, among other things, the extent to which applicants and their proposed projects will ensure “equitable investment in the safety needs of underserved communities in preventing transportation-related fatalities and injuries” and “achieve[] such other conditions as the Secretary considers to be necessary.” *See id.* § 24112(c)(3). None of these considerations pertain to a prohibition on all kinds of DEI or facilitating enforcement of federal immigration laws.

368. In February 2024, DOT posted a NOFO (updated in April 2024) announcing a competition for SS4A grant funding for Fiscal Year 2024 (the “FY 2024 SS4A NOFO”). *See* U.S. Dep’t of Transp., Notice of Funding Opportunity for FY 2024 Safe Streets and Roads for All Funding (Apr. 16, 2024), <https://www.transportation.gov/sites/dot.gov/files/2024-04/SS4A-NOFO-FY24-Amendment1.pdf>.

369. The FY 2024 SS4A NOFO directed applicants to consider policy priorities in their applications, including “Equity and Barriers to Opportunity” and “Climate Change and Environmental Justice.” *Id.* at 39; *see also id.* at 27, 29 (listing “Equity” as a selection criterion for

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1 grants). The FY 2024 SS4A NOFO specified that “[e]ach applicant selected for SS4A grant
2 funding must demonstrate effort to improve equity and reduce barriers to opportunity as described
3 in Section A” and stated “the Department seeks to award funds under the SS4A grant program that
4 will create proportional impacts to all populations in a project area, remove transportation related
5 disparities to all populations in a project area, and increase equitable access to project benefits.”
6 *Id.* at 12, 39.
7

8 370. The FY 2024 SS4A NOFO strongly emphasized equity considerations throughout.
9 The NOFO defined “equity” as “[t]he consistent and systematic fair, just, and impartial treatment
10 of all individuals, including individuals who belong to underserved communities that have been
11 denied such treatment, such as Black, Latino, Indigenous and Native Americans, Asian Americans
12 and Pacific Islanders, and other persons of color; members of religious minorities; lesbian, gay,
13 bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live
14 in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.” *Id.* at
15 4. The NOFO did not include any grant conditions related to prohibiting all kinds of DEI or
16 facilitating enforcement of federal immigration laws.
17

18 371. In addition to SS4A, FHWA administers the Federal Highway-Aid Program, which
19 provides federal formula funding for the construction, maintenance and operation of the country’s
20 3.9-million-mile highway network, including the Interstate Highway System, primary highways,
21 and secondary local roads.
22

23 372. The Infrastructure Investment and Jobs Act authorized \$356.5 billion for fiscal
24 years 2022 through 2026 to be used for the Federal Highway-Aid Program. Currently, there are
25 nine core formula funding programs within the Federal Highway-Aid Program: the National
26 Highway Performance Program, 23 U.S.C. § 119; the Surface Transportation Block Grant
27
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1 Program, 23 U.S.C. § 133; the Highway Safety Improvement Program, 23 U.S.C. § 148 and 23
2 C.F.R. Part 924; the Railway-Highway Crossings Program, 23 U.S.C. § 130 and 23 C.F.R. Part
3 924; the Congestion Mitigation and Air Quality Improvement Program, 23 U.S.C. § 149; the
4 Metropolitan Planning Program, 23 U.S.C. § 104(d); the National Highway Freight Program, 23
5 U.S.C. § 167; the Carbon Reduction Program, 23 U.S.C. § 175; and the PROTECT Formula
6 Program, 23 U.S.C. § 176. None of these statutes authorizes DOT or FHWA to impose a
7 prohibition on DEI or a requirement to facilitate enforcement of federal immigration laws as a
8 precondition to receive federal grants.
9

10 373. Section 11118 of the Infrastructure Investment and Jobs Act created the Bridge
11 Investment Program (BIP) to assist states, tribes, and local governments with rehabilitating or
12 replacing bridges to improve safety and efficiency for people and freight moving across bridges.
13 23 U.S.C. § 124(b)(2). The Act directs the DOT Secretary to consider factors such as cost
14 considerations, safety benefits, and mobility improvements. *Id.* §§ 124(f)(3)(B); (g)(4)(B). No part
15 of the BIP's authorizing language describes immigration enforcement or ending DEI as
16 considerations for the grant.
17

18 374. Section 21203 of the Infrastructure Investment and Jobs Act created the National
19 Culvert Removal, Replacement, and Restoration Grant Program, also known as the Culvert
20 Aquatic Organism Passage Program ("Culvert AOP Program") to assist states, tribes, and local
21 governments with projects that would meaningfully improve or restore passage for anadromous
22 fish (species that are born in freshwater such as streams and rivers, spend most of their lives in the
23 marine environment, and migrate back to freshwater to spawn). 49 U.S.C. § 6703. The Act directs
24 the DOT Secretary to prioritize projects that would improve fish passage for certain categories of
25 anadromous fish stocks or that would open more than 200 meters of upstream habitat before the
26

1 end of the natural habitat. *Id.* § 6703(e). The FHWA administers some Culvert AOP Program
2 grants on behalf of DOT. No part of the Culvert AOP Program’s authorizing language describes
3 immigration enforcement or ending DEI as considerations for the grant.

4 375. The FHWA also administers the FY 2023-24 Advanced Transportation Technology
5 and Innovation (ATTAIN) grant program, as directed by Congress in 23 U.S.C. § 503(c)(4).
6 Section 503(c)(4) directs the DOT Secretary to provide grants “to deploy, install, and operate
7 advanced transportation technologies to improve safety, mobility, efficiency, system performance,
8 intermodal connectivity, and infrastructure return on investment.” The DOT Secretary was
9 directed to develop selection criteria that included an enumerated list of considerations, including
10 how the deployment of technology would “improve the mobility of people and goods,” “protect
11 the environment and deliver environmental benefits that alleviate congestion and streamline traffic
12 flow,” and “reduce the number and severity of traffic crashes and increase driver, passenger, and
13 pedestrian safety.” *Id.* Nothing in the statutory provisions authorizing the ATTAIN grant program
14 describes immigration enforcement or ending DEI as considerations for the grant.
15

16 376. In fulfillment of the statutory authorization of FHWA grant programs, including
17 the ones identified above, Congress annually appropriates funding for FHWA grants. In
18 appropriations legislation, Congress sets forth priorities and directives to the DOT Secretary with
19 respect to transportation funding, but Plaintiffs are not aware of Congress ever imposing or
20 authorizing directives for or conditions on FHWA grants related to a prohibition on DEI or local
21 participation in federal immigration enforcement. *See, e.g.,* Consolidated Appropriations Act,
22 2021, Pub. L. 116-260, 134 Stat. 1835–1842; Consolidated Appropriations Act, 2022, Pub. L. 117-
23 103, 136 Stat. 697–705; Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat. 5109–
24 5117; Consolidated Appropriations Act, 2024, Pub. L. 118-42, 138 Stat. 315–324.
25

3. FAA Grant Programs

377. Congress has established by statute a variety of grant programs administered by DOT, acting through the FAA, that provide federal funds to public agencies for planning and development of airports. These include, but are not limited to, programs codified in title 49 of the U.S. Code, as well as the Infrastructure Investment and Jobs Act of 2021, Pub. L. 117-58, 135 Stat. 429.

378. For instance, the Airport Improvement Program (AIP) is codified under title 49, chapter 471 of the U.S. Code. Under the AIP, the DOT Secretary is authorized to make formula and discretionary grants to recipients (referred to as “sponsors”) for the planning and development of certain public-use airports. 49 U.S.C. 47101 *et seq.* The DOT Secretary may approve AIP grant applications only if the sponsor and project meet certain statutory requirements (for example, consistency with plans for development of the surrounding area, financial capacity, and ability to complete the project “without unreasonable delay”), and only if the sponsor makes certain written assurances based on the type of grant at issue (for example, for airport development grants, assurances such as “the airport will be available for public use on reasonable conditions and without unjust discrimination” and “the airport and facilities on or connected with the airport will be operated and maintained suitably, with consideration given to climatic and flood conditions”). 49 U.S.C. §§ 47106, 47107.

379. Congress has been precise in the requirements that attach to grant recipients and has set those forth in statute, which has been implemented by DOT through contractual “Grant Assurances” that are terms of every grant agreement. None of the statutory requirements pertains to a prohibition on DEI or a requirement of local participation in the enforcement of federal immigration laws.

1 380. AIP funding levels are established periodically by reauthorization acts, such as the
2 FAA Reauthorization Act of 2018, Pub. L. 115-254, 132 Stat. 3186, and the FAA Reauthorization
3 Act of 2024, Pub. L. 118-63, 138 Stat. 1025. The reauthorization acts define the AIP authorization
4 levels, amend the various AIP statutes, and set out directives to the DOT Secretary with respect to
5 airport improvement funding, but they do not impose or authorize directives for or conditions on
6 AIP grants related to a prohibition on DEI or requirement of local participation in federal
7 immigration enforcement.
8

9 381. Similarly, the Airport Infrastructure Grants (AIG) program is authorized under the
10 Infrastructure Investment and Jobs Act of 2021, Pub. L. 117-58, 135 Stat. 1416–1418. Under the
11 AIG program, the DOT Secretary is authorized to make formula and discretionary grants for
12 runways, taxiways, airport safety and sustainability projects, as well as terminal, airport transit
13 connections, and roadway projects. Grants made under the AIG program are treated as having been
14 made pursuant to the DOT Secretary’s authority for project grants issued under the AIP statute.
15 135 Stat. 1417–1418. The Infrastructure Investment and Jobs Act sets forth the AIG funding levels
16 but does not impose any conditions on AIG grants related to prohibitions on DEI or requirement
17 of local participation in enforcement of federal immigration laws.
18

19 382. In fulfillment of the statutory authorization of FAA grant programs, including the
20 ones identified above, Congress annually appropriates funding for FAA grants. In the annual
21 appropriations legislation, Congress sets forth additional priorities and directives to the DOT
22 Secretary with respect to transportation funding, but Plaintiffs are not aware of Congress ever
23 imposing directives for or conditions on FAA grants related to a prohibition on DEI or a
24 requirement of local participation in federal immigration enforcement. *See, e.g.*, Consolidated
25 Appropriations Act, 2021, Pub. L. 116-260, 134 Stat. 1830–1835, 1939–1941; Consolidated
26 SECOND AMENDED COMPLAINT FOR
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1 Appropriations Act, 2022, Pub. L. 117-103, 136 Stat. 691–697; Consolidated Appropriations Act,
 2 2023, Pub. L. 117-328, 136 Stat. 5101–5108; Consolidated Appropriations Act, 2024, Pub. L. 118-
 3 42, 138 Stat. 307–314.

4. FRA Grant Programs

5 383. Congress has established by statute a variety of grant programs administered by
 6 DOT, acting through the FRA, that provide federal funds to public agencies for rail infrastructure
 7 projects. These include, but are not limited to, programs codified in title 49 of the U.S. Code, as
 8 well as the Infrastructure Investment and Jobs Act of 2021, Pub. L. 117-58, 135 Stat. 429.

10 384. For example, the Railroad Crossing Elimination (RCE) Grant Program, authorized
 11 in Section 22305 of the Infrastructure Investment and Jobs Act, directed the DOT Secretary, in
 12 cooperation with the FRA Administrator, to establish a competitive grant program that provides
 13 funds to improve the safety and mobility of people and goods at railway crossings. 49 U.S.C.
 14 § 22909. Section 22305 limits eligibility for the RCE program to certain entities such as states and
 15 local governments. *Id.* § 22909(c). It also directs that the Secretary “shall” evaluate certain criteria
 16 for selecting projects funded by the grants, including, among other things, whether the proposed
 17 projects would “improve safety at highway-rail or pathway-rail crossings”; “grade separate,
 18 eliminate, or close highway-rail or path-way rail crossings”; “improve the mobility of people or
 19 goods”; “reduce emissions, protect the environment, and provide community benefits, including
 20 noise reduction”; “improve access to emergency services”; “provide economic benefits”; and
 21 “improve access to communities separated by rail crossings.” *Id.* § 22909(d), (f). None of these
 22 considerations pertains to prohibiting DEI or facilitating enforcement of federal immigration laws.

25 385. Funding for the RCE program was made available for FY 2024 and 2025 through
 26 advance appropriations provided in the Infrastructure Investment and Jobs Act and by remaining

unawarded FY 2022 RCE Program balances. 135 Stat. 1436. The appropriations provisions do not impose or authorize directives for or conditions on FRA grants related to prohibiting DEI or to local participation in federal immigration enforcement.

5. DOT SMART Grant Program

386. Section 25005 of the Infrastructure Investment and Jobs Act of 2021, Pub. L. 117-58, 135 Stat. 429, established the Strengthening Mobility and Revolutionizing Transportation (SMART) discretionary grant program with \$100 million appropriated annually for fiscal years 2022-2026. 135 Stat. 840–845.

387. The SMART grant program was established to provide grants to eligible public sector agencies for projects focused on advanced smart community technologies and systems in order to improve transportation efficiency and safety. It is a two-stage program: any eligible entity can apply for a Stage 1 grant, and a Stage 1 grantee can apply for a Stage 2 grant to expand the applicable project.

388. Section 25005 limits eligibility for the SMART grant program to certain entities such as states and local governments. 135 Stat. 840. It establishes a set of selection criteria, to be identified in the NOFO, that include the extent to which the eligible entity or applicable beneficiary community has a public transportation system and has the “functional capacity to carry out the proposed project” as well as the extent to which the proposed project will, among other things, “reduce congestion and delays for commerce and the traveling public”; “improve the safety and integration of transportation facilities and systems for pedestrians, bicyclists, and the broader traveling public”; “improve access to jobs, education, and essential services, including health care”; and “connect or expand access for underserved or disadvantaged populations and reduce transportation costs.” *Id.* at 841. Moreover, in providing SMART grants, the DOT Secretary “shall

1 give priority to” projects that would, among other things “promote a skilled workforce that is
 2 inclusive of minority or disadvantaged groups.” *Id.* at 842. None of the eligibility, selection, or
 3 prioritization criteria pertains to prohibiting DEI or facilitating enforcement of federal immigration
 4 laws.

5
 6 389. Section 25005(g) authorizes appropriation of \$100 million for each of the first five
 7 years of the SMART grant program, and directs that certain percentages of those appropriations
 8 be provided to projects benefitting large, mid-sized, and rural communities and regional
 9 partnerships. *Id.* at 845. This appropriation provision does not impose or authorize directives for
 10 or conditions on SMART grants related to prohibiting DEI or to local participation in federal
 11 immigration enforcement.

12
 13 390. As required, the SMART grant NOFOs for FY 2024 tracked the statutory
 14 description of eligibility, selection criteria, and priorities. For example, the FY 2024 Stage 1 NOFO
 15 identified as a “goal or objective of the program” and a program priority to “[c]onnect or expand
 16 access for underserved or disadvantaged populations.” Nothing in the FY 2024 Stage 1 or Stage 2
 17 NOFOs pertains to prohibiting DEI or facilitating enforcement of federal immigration laws.

18 391. Plaintiffs Alameda County, Albuquerque, Baltimore, Bellevue, Bellingham,
 19 Bremerton, Cambridge, Dane County, Eugene, Healdsburg, Hennepin County, Kitsap County, Los
 20 Angeles, Milwaukee, Milwaukee County, Multnomah County, Oakland, Pacifica, Pasadena,
 21 Petaluma, PSRC, Ramsey County, Rochester, Rohnert Park, San Diego, San Mateo County, Santa
 22 Rosa, SCTA, and Watsonville join existing plaintiffs King County, Pierce County, Snohomish
 23 County, San Francisco, Santa Clara, Boston, Columbus, NYC, Bend, Chicago, Culver City,
 24 Denver, Minneapolis, Nashville, Pima County, Pittsburgh, Portland, San José, Santa Monica,
 25 Sonoma County, Tucson, Wilsonville, Intercity Transit, Port of Seattle, SFCTA, Sound Transit,
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1 and TIMMA (collectively, the “DOT Plaintiffs”). Each of these Plaintiffs have previously
 2 received, currently receive, or are otherwise eligible to receive DOT grants, directly and/or on a
 3 pass-through basis. DOT Plaintiffs rely on over \$7 billion in appropriated federal funds from DOT
 4 grant programs for transportation-related projects undertaken for the benefit of their communities.

5 **C. HHS Grant Programs**

6 392. Congress established the precursor to HHS—the cabinet-level Department of
 7 Health, Education, and Welfare—in 1953. After a separate Department of Education was created
 8 in 1979, HHS took its current name. Today, HHS is the largest grant-making agency in the United
 9 States. It administers both competitive grant programs and formula and block grant programs that
 10 provide funds to local governments to enhance the health and well-being of their communities. In
 11 administering grant programs, HHS often acts through its operating divisions and agencies, such
 12 as the Administration for Children and Families (ACF), the Centers for Disease Control and
 13 Prevention (CDC), the Centers for Medicare & Medicaid Services (CMS), the Health Resources
 14 and Services Administration (HRSA), the Substance Abuse and Mental Health Services
 15 Administration (SAMHSA), and the National Institutes of Health (NIH), among others. *See* U.S.
 16 Dep’t Health & Hum. Servs., HHS Agencies & Offices, [https://www.hhs.gov/about/agencies/hhs-](https://www.hhs.gov/about/agencies/hhs-agencies-and-offices/index.html)
 17 [agencies-and-offices/index.html](https://www.hhs.gov/about/agencies/hhs-agencies-and-offices/index.html) (last visited June 27, 2025). The Secretary of HHS is responsible
 18 for overseeing the actions of its operating divisions and agencies. *See, e.g.*, 42 U.S.C. §§ 12311,
 19 12312 (establishment of ACF within HHS; functions of ACF Commissioner); 42 U.S.C. § 290aa
 20 (similar for SAMHSA and its head; authority of HHS Secretary); 42 U.S.C. § 242c (appointment
 21 and authority of CDC Director; functions of HHS Secretary); 42 U.S.C. § 282 (appointment and
 22 authority of NIH Director; functions of HHS Secretary); 42 U.S.C. §§ 202–203 (organization of
 23 Public Health Service, which includes NIH, within HHS); 42 U.S.C. § 1317 (appointment of CMS
 24
 25
 26
 27

Administrator); U.S. Dep’t Health & Hum. Servs., Centers for Medicare & Medicaid Services, 66 Fed. Reg. 35437 (Jul. 5, 2001) (establishing CMS and delegating authority from HHS Secretary to CMS Administrator). Some examples of the grants administered by HHS and its operating divisions and agencies are discussed below.

1. Administration for Children and Families Programs

393. ACF administers discretionary and formula grants to support programs that serve children and families. Grants administered by ACF include funds authorized by Congress under Title IV and Title XX of the Social Security Act of 1935 (the “Social Security Act”).

a.) Temporary Assistance for Needy Families Program

394. In 1996, Congress enacted PRWORA and authorized the block grant of the Temporary Assistance for Needy Families (TANF), Pub. L. 104-193, 110 Stat. 2105, codified at 42 U.S.C. §§ 601-619. In enacting TANF, Congress replaced Aid to Families with Dependent Children and revised Title IV-A of the Social Security Act.

395. The TANF program is one of the nation’s primary economic security and stability programs for low-income children and families. Awarded as a block grant to states and then to local jurisdictions, TANF is used to provide income support to low-income families with children, as well as services including childcare and refundable tax credits. U.S. Dep’t Health & Hum. Servs., Admin. for Children & Families, Office of Family Assistance, <https://acf.gov/ofa/programs/tanf/about> (last updated Sept. 27, 2024).

396. The Office of Family Assistance—an office of ACF—administers Title IV-A funds through the TANF program.

397. The statutory purpose of TANF “is to increase the flexibility of states” to achieve four statutory goals: (1) provide assistance to needy families so children can be cared for in their

own homes or the homes of relatives; (2) end dependence of parents on government benefits; (3) reduce the incidence of out-of-wedlock pregnancies; and (4) promote the formation and maintenance of two-parent families. 42 U.S.C. § 601(a). States have authority to use federal TANF funds “in any manner that is reasonably calculated to accomplish” the statutory purpose. 42 U.S.C. § 604(a)(1).

398. 45 C.F.R. § 260 sets forth the regulations that apply to TANF. Section 260 does not authorize conditions on TANF grants related to prohibiting all forms of DEI, exclusion of transgender individuals, denying services to immigrants, or adherence to executive orders unrelated to the purpose of the grant.

399. 42 U.S.C. § 608 sets forth requirements for states that receive TANF block grants, including the requirement to prevent unauthorized spending of benefits, 42 U.S.C. § 608 (a)(12), and the development of individual responsibility plans, *id.* § 608(b). It further identifies prohibitions—and exceptions to certain prohibitions—for a state’s use of TANF funds. Section 608 does not authorize conditions on TANF grants related to prohibiting all forms of DEI, exclusion of transgender individuals, denying services to immigrants, or adherence to executive orders unrelated to the purpose of the grant.

400. Section 1912 of the Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. 119-4, 139 Stat. 9, funds TANF through September 30, 2025. Section 1912 does not authorize conditions on grants related to prohibiting all forms of DEI, exclusion of transgender individuals, denying services to immigrants, or adherence to executive orders unrelated to the purpose of the grant.

b.) Title IV-B Program

401. Title IV-B of the Social Security Act, first established in 1935, provides funding

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1 to states for child welfare services. Title IV-B provides funds to strengthen child welfare service
2 programs and promote the development and expansion of coordinated child and family services
3 programs.

4 402. On January 4, 2025, Congress reauthorized and amended child welfare programs
5 under Title IV-B through the Supporting America's Children and Families Act, Pub. L. 118-258,
6 138 Stat. 2947. The Supporting America's Children and Families Act reauthorized appropriations
7 for Title IV-B programs through fiscal year 2029.

8 403. The Children's Bureau—an office of ACF—provides Title IV-B grants to support
9 programs that serve children and families. Among the Title IV-B grant programs are the Stephanie
10 Tubbs Jones Child Welfare Services Program and the MaryLee Allen Promoting Safe and Stable
11 Families (PSSF) program.

12 404. The Stephanie Tubbs Jones Child Welfare Services Program, Title IV-B Subpart
13 1, provides formula grants to develop and expand child and family services programs. Congress
14 authorized the program under Title IV, Part B, Subpart 1, sections 421–420 of the Social Security
15 Act. The program is codified at 42 U.S.C. §§ 621–625 and § 628.

16 405. The purpose of the Stephanie Tubbs Jones Child Welfare Services Program is to
17 “promote State flexibility in the development and expansion of a coordinated child and family
18 services program that utilizes community-based agencies and ensures all children are raised in
19 safe, loving families” by protecting and promoting the welfare of children; preventing neglect,
20 abuse or exploitation of children; supporting at-risk families through services that allow children
21 to remain with or return to their families; promoting the safety, permanency, and well-being of
22 children in foster care and adoptive families; and providing training, professional development and
23 support to ensure a well-qualified workforce. 42 U.S.C. § 621. Funds may be used to support the
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1 program purposes. U.S. Dep’t Health & Hum. Servs., Admin. For Children & Families, Children’s
2 Bureau, [https://acf.gov/cb/grant-funding/90stephanie-tubbs-jones-child-welfare-services-program-](https://acf.gov/cb/grant-funding/90stephanie-tubbs-jones-child-welfare-services-program-title-iv-b-subpart-1-child)
3 [title-iv-b-subpart-1-child](https://acf.gov/cb/grant-funding/90stephanie-tubbs-jones-child-welfare-services-program-title-iv-b-subpart-1-child) (last updated April 22, 2019).

4 406. Program specific implementing regulations for the Stephanie Tubbs Jones Child
5 Welfare Services Program are located at 45 C.F.R. parts 1355 and 1357. These regulations do not
6 authorize conditions on the Stephanie Tubbs Jones Child Welfare Services Program related to
7 prohibiting all forms of DEI, exclusion of transgender individuals, denying services to immigrants,
8 or adherence to executive orders unrelated to the purpose of the grant. Section 1357.30 sets forth
9 the requirements for Stephanie Tubbs Jones Child Welfare Services Program funds allotted or
10 reallotted to states. Section 1357.30 does not authorize conditions related to prohibiting all forms
11 of DEI, exclusion of transgender individuals, denying services to immigrants, or adherence to
12 executive orders unrelated to the purpose of the grant.
13

14 407. The PSSF program provides formula grants with the purpose of preventing child
15 maltreatment and the unnecessary separation of children from their families. Congress authorized
16 the PSSF program under Title IV, Part B, Subpart 2, sections 430–437 of the Social Security Act.
17 The program is codified at 42 U.S.C. § 629, *et seq.*
18

19 408. The PSSF program’s purpose is “to enable States to develop and establish, and to
20 operate coordinated programs of community-based family support services” for family
21 preservation, family reunification, adoption promotion and support services. 42 U.S.C. § 629.
22

23 409. 42 U.S.C. § 629b sets forth requirements for states that receive PSSF program
24 funds. Section 629b does not authorize conditions related to prohibiting all forms of DEI, exclusion
25 of transgender individuals, denying services to immigrants, or adherence to executive orders
26 unrelated to the purpose of the grant.

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1 410. Implementing regulations for the PSSF program are located at 45 C.F.R. parts
2 1355 and 1357. These regulations do not authorize conditions on PSSF program funds related to
3 prohibiting all forms of DEI, exclusion of transgender individuals, denying services to immigrants,
4 or adherence to executive orders unrelated to the purpose of the grant.

5 411. Section 1357.32 sets forth the requirements for PSSF program funds allocated to
6 states. Section 1357.32 does not authorize conditions related to prohibiting all forms of DEI,
7 exclusion of transgender individuals, denying services to immigrants, or adherence to executive
8 orders unrelated to the purpose of the grant.

9 412. Section 103 of the Supporting America's Children and Families Act, which
10 reauthorized funding for Title IV-B programs through FY2029, does not authorize conditions on
11 grants related to prohibiting all forms of DEI, exclusion of transgender individuals, denying
12 services to immigrants, or adherence to executive orders unrelated to the purpose of the grant.

13 *c.) Title IV-E Program*

14 413. In 1980, Congress enacted the Adoption Assistance and Child Welfare
15 Amendments of 1980, establishing a new Title IV-E Foster Care and Adoption Assistance
16 entitlement program.

17 414. The Children's Bureau administers Title IV-E grants to support programs that
18 serve children and families. The purpose of Title IV-E is to enable states to provide "foster care
19 and transitional independent living programs," "adoption assistance for children with special
20 needs," and "kinship guardian assistance." 42 U.S.C. § 670. The administration of these programs
21 is authorized by Congress under Part E, Sections 470–479B of Title IV of the Social Security Act
22 and codified at 42 U.S.C. §§ 670–679c. Among the Title IV-E grant programs are the Foster Care
23 program and the Adoption Assistance program.

1 415. The Foster Care program provides funding to states to provide safe and stable out-
2 of-home care for eligible children and youth until they are safely returned home, placed
3 permanently with adoptive families or legal guardians, or placed in other planned arrangements
4 for permanency. U.S. Dep't Health & Hum. Servs., Admin. for Children & Families, Children's
5 Bureau, <https://acf.gov/cb/grant-funding/title-iv-e-foster-care> (last updated June 28, 2024).
6

7 416. 42 U.S.C. § 672 sets forth the requirements for Foster Care program funding
8 eligibility. Section 672 does not authorize conditions on grants related to prohibiting all forms of
9 DEI, exclusion of transgender individuals, denying services to immigrants, or adherence to
10 executive orders unrelated to the purpose of the grant.

11 417. The Adoption Assistance program, section 473 of Title IV-E, provides funds to
12 states to facilitate the timely placement of children whose special needs or circumstances would
13 otherwise make their placement with adoptive families difficult. U.S. Dep't Health & Hum. Servs.,
14 Admin. for Children & Families, Children's Bureau, [https://acf.gov/cb/grant-funding/title-iv-e-](https://acf.gov/cb/grant-funding/title-iv-e-adoption-assistance)
15 adoption-assistance (last updated June 27, 2024).
16

17 418. 42 U.S.C. § 673 sets forth the requirements for Adoption Assistance program
18 funding eligibility. Section 673 does not authorize conditions on grants related to prohibiting all
19 forms of DEI, exclusion of transgender individuals, denying services to immigrants, or adherence
20 to executive orders unrelated to the purpose of the grant.
21

22 419. Regulations applicable to Title IV-E are located at 45 CFR Part 1356. These
23 regulations do not authorize conditions on PSSF program funds related to prohibiting all forms of
24 DEI, exclusion of transgender individuals, denying services to immigrants, or adherence to
25 executive orders unrelated to the purpose of the grant.

26 420. Section 1109(b)(4) of the Full-Year Continuing Appropriations and Extensions
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1 Act, 2025, Pub. L. 119-4, 139 Stat. 9, funds Title IV-E through September 30, 2025. Section
 2 1109(b)(4) does not authorize conditions on grants related to prohibiting all forms of DEI,
 3 exclusion of transgender individuals, denying services to immigrants, or adherence to executive
 4 orders unrelated to the purpose of the grant.

5
 6 ***d.) Title XX Social Services Block Grant***

7 421. Title XX of the Social Security Act, first established in 1975, allocates federal
 8 funding for social services to the states according to population size. In 1981, Congress amended
 9 Title XX of the Social Security Act through the Omnibus Budget Reconciliation Act of 1981, Pub.
 10 L. 97-35, 95 Stat. 172. This amendment established the Social Services Block Grant (SSBG),
 11 codified at 42 U.S.C. §§ 1397–1397i.

12 422. The Office of Community Services—an office of ACF—administers the SSBG.

13 423. The SSBG supports the provision of social services directed at the following goals:
 14 (1) achieving or maintaining economic self-support, (2) achieving or maintaining self-sufficiency,
 15 (3) preventing or remedying the neglect or abuse of children and adults, (4) providing community-
 16 based and home-based alternatives to institutional care, and (5) securing referral or admission for
 17 institutional care when alternative forms of care are not appropriate. 42 U.S.C. § 1397. States have
 18 broad discretion in using SSBG funds to meet these goals. *Id.* (describing one purpose of the SSBG
 19 as “increasing State flexibility in using social service grants”); U.S. Dep’t of Health & Hum.
 20 Servs., Admin. for Children & Families, Office of Community Services,
 21 <https://acf.gov/ocs/programs/ssbg/about> (last updated June 10, 2019).

22 424. Program-specific implementing regulations for the SSBG are located at 45 CFR
 23 §§ 96.70–96.74. These regulations, which principally set forth the transferability of funds and
 24 annual reporting requirements, do not authorize conditions on the SSBG related to prohibiting all

1 forms of DEI, exclusion of transgender individuals, denying services to immigrants, or adherence
2 to executive orders unrelated to the purpose of the grant.

3 425. Statutory restrictions on the SSBG are located at 42 U.S.C. §§ 1397c–1397e.
4 Sections 1397c and 1397e impose reporting, audit, and accounting requirements on the states.
5 Section 1397d prohibits the use of SSBG funds for a limited set of purposes, including buying or
6 improving land, paying room and board outside of rehabilitation or temporary emergency shelter,
7 paying wages, and providing medical care. None of these statutory restrictions authorize
8 conditions on the SSBG related to prohibiting all forms of DEI, exclusion of transgender
9 individuals, denying services to immigrants, or adherence to executive orders unrelated to the
10 purpose of the grant.
11

12 **2. Health Resources and Services Administration Programs**

13 426. The Health Resources and Services Administration (HRSA) within HHS awards
14 grant funding to more than 3,000 recipients, including state and local governments, to support
15 health services projects, such as training health care workers and providing specific health services.
16 Elayne J. Heisler, Cong. Rsch. Serv., R46001, Health Resources and Services Administration
17 (HRSA) FY2020 President’s Budget Request and Agency Funding History: In Brief (Nov. 12,
18 2019).
19

20 427. HRSA awards a variety of competitive and formula grants in several program areas,
21 including Primary Care/Health Centers, Health Workforce Training, HIV/AIDS, Organ Donation,
22 Maternal and Child Health, Rural Health, and other areas. Grants, U.S. Dep’t Health & Hum.
23 Servs., Health Res. & Servs. Admin., <https://data.hrsa.gov/topics/grants> (last updated May 20,
24 2025).
25

26 428. Among HRSA’s largest grant programs are the Health Center Program (HCP) and
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1 the Ryan White HIV/AIDS (RWHA) program.

2 *a.) The Health Center Program*

3 429. Congress authorized the federal HCP program through Section 330 of the Public
4 Health Service Act (PHSA), as amended. 42 U.S.C. § 254b. The HCP program funds grants to
5 support qualified outpatient facilities that provide primary care to low-income individuals and
6 other underserved communities, as specified in the statute.

7
8 430. In particular, the HCP program supports four types of health centers: (1) community
9 health centers (CHCs), (2) health centers for the homeless (HCHs), (3) health centers for residents
10 of public housing, and (4) migrant health centers. *See id.* §254b(a), (g), (h), (i). The majority of
11 these are CHCs, which must provide “primary health services” to medically underserved
12 populations and serve all residents of the CHC’s services area. *Id.* § 2549(a). HCHs provide
13 services to individuals experiencing or at risk of homelessness and are required to provide all
14 services CHCs provide as well as substance abuse treatment. *Id.* § 2549(h). Health centers for
15 residents of public housing are located in, and offer primary care services to those who reside in
16 or near, public housing facilities. *Id.* § 2549(i). Finally, migrant health centers provide care to
17 migratory and seasonal agricultural workers and their families. *Id.* § 2549(g).

18
19 431. Funding for the HCP program comes from a combination of discretionary funding,
20 appropriated by Congress each year, and mandatory funding from the Community Health Center
21 Fund. By statute, HCH programs receive 8.7% of HCP funds.

22
23 432. In addition to the HCP grants themselves, health centers that receive funding under
24 Section 330 of the PHSA become eligible for other congressionally authorized benefits. For
25 instance, such health centers are eligible for designation as Federally Qualified Health Centers
26 (FQHCs), which entitles them to higher, cost-based Medicare and Medicaid reimbursement rates.

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1 *Id.* §§ 1395i(a)(1)(z), 1395m(o), 1395x(aa)(3). FQHCs may also receive drug discounts under
2 Section 340B of the PHSA. *Id.* § 256b.

3 433. Section 330 of the PHSA sets out numerous requirements that health centers must
4 meet to ensure that HCP-funded facilities serve as part of a safety net for underserved communities.
5 In addition to the requirements set forth above, Congress requires that HCP-funded health centers
6 provide services to all patients regardless of ability to pay. 42 U.S.C. § 254b(k)(3). Recipients
7 must therefore have fee schedules consistent with locally prevailing wages while covering
8 operating costs, and must offer discounts based on the patient's ability to pay. *Id.* § 254b(k)(3)(G).
9 They must also be located in areas or serve populations that the HHS Secretary has designated as
10 "medically underserved." *Id.* § 254b(a)(1), (b)(3), (c)(1), (e)(1)(A). The statute sets forth additional
11 detailed funding conditions concerning Medicaid coordination and reimbursement, governance,
12 provision of services, reporting, and quality assurance. *Id.* § 254b(b)(1), (k)(3)(C), (F), (H), (I),
13 (q).
14

15
16 434. Section 330 of the PHSA does not authorize conditions on HCP grants related to
17 prohibiting DEI in all forms, excluding transgender individuals, denying services to immigrants,
18 or incorporating executive orders unrelated to providing health care to underserved populations.

19 435. The HHS Secretary has promulgated regulations further governing the HCP
20 program at 42 C.F.R. parts 51c and 56 (the "HCP Rule"). Among other things, the HCP Rule sets
21 forth additional limitations on the use of HCP funds, 42 C.F.R. § 51c.107, and enumerates project
22 requirements and criteria the HHS Secretary will consider in awarding grants based on the purpose
23 of the funds, *id.* §§ 51c.203, 51c.204, 51c.303, 51c.305, 51c.403, 51c.404., 51c.504. For instance,
24 in reviewing proposals to plan or develop new health centers, the HHS Secretary must consider
25 the relative need of the population to be served by the proposed project, the health center's
26

1 potential for developing new and effective methods for providing services, and the distribution of
 2 resources across the country. *Id.* § 51c.204. The HCP Rule also sets forth specific requirements
 3 for migrant health centers, including a requirement that they provide specific services to migrant
 4 and seasonal agricultural workers' needs, such as supportive services, environmental health
 5 services, accident prevention, and prevention and treatment of health conditions related to
 6 pesticide exposure. 42 C.F.R. § 56.102(g).

8 436. The HCP Rule does not impose any conditions on HCP grants related to prohibiting
 9 DEI in all forms, excluding transgender individuals, or incorporating executive orders unrelated
 10 to providing health care to underserved populations.

11 ***b.) Ryan White HIV/AIDS Program***

12 437. In 1990, Congress established the Ryan White HIV/AIDS (RWHA) program as
 13 part of the Ryan White Comprehensive AIDS Resources Emergency Act, Pub. L. 101-381, 104
 14 Stat. 576, and has revised and extended it several times, including in the Ryan White HIV/AIDS
 15 Treatment Modernization Act of 2006, Pub. L. 109-415, 120 Stat. 2767, and the Ryan White
 16 HIV/AIDS Treatment Extension Act of 2009, Pub. L. 111-87, 123 Stat. 2885. The program is
 17 codified at Title 42, Subchapter XXIV of the U.S. Code and contains four major parts. Among
 18 these are Part A, which provides grants to urban areas and mid-sized cities, 42 U.S.C. §§ 300ff-11
 19 to 300ff-20; Part B, which provides grants to states and territories, *id.* §§ 300ff-21 to 300ff-38; and
 20 Part C, which funds HIV outpatient primary care to low-income and medically underserved people
 21 living with HIV/AIDS, *id.* §§ 300ff-51 to 300ff-67.

22 ***(i.) RWHA Part A Program***

24 438. Part A of the RWHA program provides grants for medical and support services to
 25 eligible metropolitan areas with high levels of reported AIDS cases in the previous five years. *Id.*

1 § 300ff-11(a). HRSA distributes two-thirds of appropriated Part A grants non-competitively to
2 eligible metropolitan areas based on a statutory formula, *id.* § 300ff-13(a)(2)–(3), and the
3 remaining one-third via competitive supplemental grants awarded based on the applicant’s
4 demonstrated need, *id.* § 300ff-13(b). With respect to the two-thirds comprised of formula grants,
5 the Secretary has no discretion to withhold funding and is required to allocate grants based on a
6 formula that considers how many individuals are living with HIV/AIDS in the jurisdiction. *See id.*
7 § 300ff-13(a)(2), (3).
8

9 439. Congress has imposed detailed conditions on RWHA Part A grants. For instance,
10 Part A grant recipients must spend 75% of awarded funds on “core medical services,” which are
11 defined to include outpatient/ambulatory medical care services, AIDS pharmaceutical assistance,
12 home health care, and mental health and substance abuse outpatient services, among others. *Id.*
13 § 300ff-14(c). The remaining Part A funds must go toward “support services,” such as outreach,
14 medical transportation, and referrals, as well as statutorily permitted administrative expenses. *Id.*
15 § 300ff-14(c)(1), (d). Congress has also mandated that grant recipients establish HIV Health
16 Services Planning Councils to set priorities for care delivery and has prescribed several related
17 requirements. *Id.* § 300ff-12(b).
18

19 440. Congress has also enacted statutory factors that HRSA must consider in awarding
20 competitive supplemental grants to applicants based on demonstrated need. These include the rates
21 of HIV/AIDS, impacts of co-morbid factors, and prevalence of homelessness in the applicant’s
22 area. *Id.* § 300ff-13(b)(2)(B).
23

24 441. Neither the statutes governing the RWHA Part A program nor any other legislation
25 authorizes HRSA to impose grant conditions related to prohibiting all forms of DEI, exclusion of
26 transgender individuals, denying services to immigrants, or adherence to executive orders
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1 unrelated to providing health services for low-income individuals with HIV/AIDS.

2 (ii.) *RWHA Part B Program*

3 442. The RWHA Part B program provides grants to each of the 50 states, the District of
4 Columbia, Guam, and the Virgin Islands for services such as drug treatments, home and
5 community-based health care, support services, or health insurance coverage for low income
6 individuals living with HIV/AIDS, among other services. 42 U.S.C. §§ 300ff-22–26. Some of these
7 states and territories pass through RWHA Part B funds to subrecipients, including local
8 governments. One portion of RWHA Part B is the AIDS Drug Assistance Program (ADAP), which
9 receives separate appropriations from Congress. *Id.* § 300ff-26. The remaining funding goes
10 toward Part B base grants and supplemental grants. Base grants are awarded pursuant to a formula
11 based on the number of individuals living with HIV/AIDS cases in the state or territory relative to
12 various comparators. *Id.* § 300ff-28. Supplemental grants under RWHA Part B are awarded to
13 states and territories with a demonstrated need based on increasing rates of HIV/AIDS cases,
14 unmet needs for services, and other factors. *Id.* § 300ff-29a.

17 443. Congress has imposed detailed conditions on RWHA Part B grants. For instance,
18 as in the Part A program, recipients of Part B funds must spend 75% of awarded funds on “core
19 medical services” and 25% on “support services,” which are each limited to specifically defined
20 activities. *Id.* § 300ff-22. The Part B program also authorizes states and territories to award grants
21 to subrecipients and imposes additional requirements on such sub-awards based on the type of
22 services the subrecipient will provide. *See id.* §§ 300ff-23–24. For example, Congress has
23 authorized states and territories to award grants for home- and community-based health services,
24 but requires states and territories to prioritize providers who serve low-income individuals with
25 HIV/AIDS and participate in an HIV care consortium. *Id.* § 300ff-24(b).

1 444. The statute authorizes the Secretary of HHS to require other “agreements,
2 assurances, and information” from states and territories, but only to the extent “necessary to carry
3 out” the Secretary’s authority to “make grants to . . . enable . . . States to improve the quality,
4 availability and organization of health care and support services for individuals and families with
5 HIV/AIDS.” *Id.* §§ 300ff-27(a), 300ff-21.

6
7 445. Congress has also authorized states and territories to award grants using RWHA
8 Part B funds to certain associations, called HIV care consortia, comprised of public or private
9 service providers and community based organizations in areas most affected by HIV/AIDS. 42
10 U.S.C. § 300ff-23. In doing so, Congress set forth specific agreements and assurances related to
11 the purposes of the Part B program that HIV care consortia must make as a condition to receiving
12 funds. For instance, HIV care consortia must “agree to use such assistance for the planning,
13 development and delivery . . . of comprehensive outpatient health and support services for
14 individuals with HIV/AIDS.” *Id.* § 300ff-23(a)(2).

15
16 446. The assurances and application requirements Congress specified for HIV care
17 consortia under RWHA Part B indicate a statutory purpose to address the needs of minority and
18 underserved communities. For instance, each HIV care consortium must provide an assurance that
19 “the populations and subpopulations of individuals and families with HIV/AIDS have been
20 identified by the consortium, particularly those experiencing disparities in access and services and
21 those who reside in historically underserved communities.” *Id.* § 300ff-23(b)(1)(A). The
22 consortium must also provide an assurance that it has established a service plan that “addresses
23 the special care and service needs of” such historically underserved communities. *Id.* § 300ff-
24 23(b)(1)(B). Finally, Congress specified grant application requirements that HIV care consortia
25 must meet to be eligible for funding, including that the application “demonstrates that adequate
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1 planning occurred to address disparities in access and services and historically underserved
2 communities.” *Id.* § 300ff-23(c)(1)(F).

3 447. Neither the statutes governing the RWHA Part B program nor any other legislation
4 authorizes HRSA to impose grant conditions related to prohibiting all forms of DEI, exclusion of
5 transgender individuals, denying services to immigrants, or adherence to executive orders
6 unrelated to providing health services for low-income individuals with HIV/AIDS.
7

8 (iii.) *RWHA Part C Program*

9 448. RWHA Part C grants emphasize services designed to intervene early to improve
10 health outcomes for low-income individuals with HIV/AIDS. HRSA awards RWHA Part C grants
11 competitively to eligible facilities, including municipal health facilities, that serve medically
12 underserved populations. 42 U.S.C. § 300ff-52(a). Congress has mandated that HRSA prioritize
13 applicants experiencing increased burdens on HIV/AIDS services when awarding RWHA Part C
14 grants. *Id.* § 300ff-53.
15

16 449. Like Part A and Part B grants, Part C grants are subject to specific statutory
17 requirements. For instance, Part C grant recipients must also provide a mix of statutorily prescribed
18 “core services” and “supportive serves.” *Id.* § 300ff-51(b)(1). At least half of allocated funding
19 must go toward such services that focus on early intervention, including HIV/AIDS testing and
20 referrals. *Id.* § 300ff-51(b)(2). The statute also requires applicants to agree to certain funding
21 conditions, including that the applicant will only use funds for statutorily authorized purposes, will
22 establish fiscal control and accounting procedures, and will establish a clinical quality management
23 program, among others. *Id.* § 300ff-64(g). Finally, Congress has mandated conditions on the use
24 of funds for HIV/AIDS counseling, including that counseling programs may not directly promote
25 intravenous drug use or sexual activity and must educate patients on the availability of hepatitis a
26

1 and b vaccines. *Id.* § 300ff-67.

2 450. Neither the statutes governing the RWHA Part C program nor any other legislation
3 authorizes HRSA to impose grant conditions related to prohibiting all forms of DEI, exclusion of
4 transgender individuals, or adherence to executive orders unrelated to providing early intervention
5 services for low-income individuals with HIV/AIDS.

7 **3. Substance Abuse and Mental Health Services Administration** 8 **Programs**

9 451. The Substance Abuse and Mental Health Services Administration (SAMHSA)
10 within HHS, “funds organizations providing substance use and mental health services, research,
11 technical assistance, and training to advance the behavioral health and to improve the lives of
12 individuals living with mental and substance use disorders, and their families.” *Grants*, SAMHSA,
13 <https://www.samhsa.gov/grants> (last visited July 1, 2025). SAMHSA administers both
14 competitive, discretionary grant programs and “noncompetitive, formula grant” programs
15 “mandated by the U.S. Congress.” *Id.* Examples of these noncompetitive block grants include the
16 Community Mental Health Services Block Grant and the Substance Use Prevention, Treatment,
17 and Recovery Services Block Grant.

18 452. One key discretionary SAMHSA grant program is the Substance Abuse and Mental
19 Health Services Projects of Regional and National Significance. For example, plaintiff San
20 Francisco receives funds under this program for its Building City-Wide Capacity for Community
21 and Traditional First Responders in Overdose Response grant (“First Responders Grant”). The
22 First Responder Grant is used to train first responders to treat those experiencing an overdose, an
23 unfortunate reality of the ongoing opioid epidemic.

24 453. Authority for SAMHSA to issue grants under the Substance Abuse and Mental
25

1 Health Services Projects of Regional and National Significance program comes, for example, from
 2 42 U.S.C. § 290ee-1, titled “First responder training.” This statute lists the required criteria for a
 3 grant application and allowable uses for grant funds. *Id.* Neither the criteria for the grant
 4 application nor the listed uses for grant funds authorize conditions on these grants related to
 5 prohibiting all forms of DEI, exclusion of transgender individuals, denying services to immigrants,
 6 or adherence to executive orders unrelated to the purpose of the grant.
 7

8 454. One of the requirements in SAMHSA’s Notice of Award (NOA) under this
 9 program is a “Disparity Impact Statement (DIS),” which needs to include “[a] quality improvement
 10 plan for how [recipients will use program data] to monitor and manage program outcomes by race,
 11 ethnicity, and LGBT status, when possible.” SAMHSA also required the quality improvement plan
 12 to “include strategies for how processes and/or programmatic adjustments will support efforts to
 13 reduce disparities for the identified sub-populations.” The NOA does not include any grant
 14 conditions related to prohibiting all kinds of DEI, exclusion of transgender people, or adherence
 15 to executive orders unrelated to overdose response.
 16

17 455. SAMHSA grants also support other programs that provide emergency mental and
 18 behavioral health services, all of which are subject to statutory directives and conditions. *See* 42
 19 U.S.C. §§ 290dd-3 to 290ee-2, 290ee-3 to 290ee-3a, 290ee-5 to 290ee-5a, 290ee-7 to 290ee-10.
 20 None of the statutes establishing these programs authorize conditions on these grants related to
 21 prohibiting all forms of DEI, exclusion of transgender individuals, denying services to
 22 immigrants, or adherence to executive orders unrelated to the purpose of the grant.
 23

24 **4. Centers for Disease Control and Prevention Grant Programs**

25 456. The Centers for Disease Control and Prevention (CDC) within HHS describes itself
 26 as “the nation’s leading science-based, data-driven, service organization that protects the public’s
 27

1 health.” *Home*, CDC, <https://www.cdc.gov/> (last accessed June 30, 2025). CDC provides much of
 2 the funding to support public health systems and activities by state and local governments. Josh
 3 Michaud, et al., *CDC’s Funding for State and Local Public Health: How Much and Where Does*
 4 *it Go?*, KFF, [https://www.kff.org/other/issue-brief/cdcs-funding-for-state-and-local-public-](https://www.kff.org/other/issue-brief/cdcs-funding-for-state-and-local-public-health-how-much-and-where-does-it-go/)
 5 [health-how-much-and-where-does-it-go/](https://www.kff.org/other/issue-brief/cdcs-funding-for-state-and-local-public-health-how-much-and-where-does-it-go/) (Apr. 7, 2025). In FY 2023, CDC obligated almost \$15
 6 billion to state and local jurisdictions. *Id.* The CDC’s funding supports a range of programs
 7 including HIV/AIDS, Viral Hepatitis, STI, and TB Prevention; Chronic Disease Prevention and
 8 Health Promotion; Public Health Preparedness and Response; and Injury Prevention and Control.
 9 *Grant Funding Profiles – Funding Category View*, CDC,
 10 <https://fundingprofiles.cdc.gov/Category/Category> (last visited June 30, 2025).

12 457. For example, one of the grants awarded by CDC is the High-Impact HIV Prevention
 13 and Surveillance Programs for Health Departments grant, which is a part of CDC’s funding for
 14 HIV/AIDS, Viral Hepatitis, STI, and TB Prevention. As explained by the most recent 2024 NOFO
 15 for this program, the grant funds recipients “to implement a comprehensive, person-centered HIV
 16 prevention and surveillance program to prevent new HIV infections and improve the health of
 17 people with HIV.”

19 458. The NOFO for this program includes as a *required* element, “Addressing Social
 20 and Structural Factors.” The NOFO recognizes that “[t]he impact of racism, homophobia,
 21 transphobia, and stigma significantly exacerbates the health disparities experienced among
 22 communities disproportionately affected by HIV. Health equity is a desirable goal that entails
 23 special efforts to improve the health of those who have experienced social or economic
 24 disadvantage.” With respect to the “Population(s) of Focus,” the NOFO explains that “Applicants
 25 must provide HIV services to populations within the jurisdiction that are disproportionately

1 impacted by HIV as identified by their epidemiological data, gaps in services, or need,” and
 2 “Examples to consider based on national and local data, include transgender women, cisgender
 3 Black or African American women, gay and bisexual men, American Indian or Alaska Native gay
 4 and bisexual men, people who inject drugs (PWID), youth, pregnant and postpartum persons and
 5 their infants, and other populations with disproportionately higher rates of HIV diagnosis including
 6 individuals involved in the justice system and people experiencing housing insecurity.”
 7

8 459. The NOFO did not include any grant conditions related to prohibiting all kinds of
 9 DEI, exclusion of transgender people, or adherence to executive orders unrelated to HIV/AIDS
 10 surveillance and prevention.

11 460. Statutory authority for the Fiscal Year 2024 High-Impact HIV Prevention and
 12 Surveillance Programs for Health Departments grant comes from 42 U.S.C. § 247c(b)–(c) and the
 13 Consolidated Appropriations Act of 2016, Pub. L. 114-113, 129 Stat. 2242. 42 U.S.C. § 247c
 14 authorizes HHS to make grants like the High-Impact HIV Prevention and Surveillance Programs
 15 for Health Departments grant. It also identifies authorized conditions on the grants, including
 16 recordkeeping requirements, 42 U.S.C. § 247c(e)(3), and patient confidentiality mandates, *id.*
 17 § 247c(e)(5). Neither 42 U.S.C. § 247c nor the Consolidated Appropriations Act of 2016 authorize
 18 or impose conditions on this grant related to prohibiting all forms of DEI, exclusion of transgender
 19 individuals, denying services to immigrants, or adherence to executive orders unrelated to
 20 HIV/AIDS surveillance and prevention.
 21
 22

23 5. Teen Pregnancy Prevention Program

24 461. In 2009, Congress established the Teen Pregnancy Prevention (TPP) program “to
 25 fund competitive contracts and grants to public and private entities” for “medically accurate and
 26 age appropriate programs that reduce teen pregnancy.” Consolidated Appropriations Act of 2010,
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1 Pub. L. 111-117, 123 Stat. 3034, 3253 (2009). The TPP program is administered by the Office of
 2 Population Affairs (OPA), a division of HHS's Office of the Assistant Secretary for Health. About,
 3 U.S. Dep't Health & Hum. Servs., Off. Population Affs., <https://opa.hhs.gov/about> (last visited
 4 June 16, 2025).

5
 6 462. TPP grants are competitively awarded to public and private entities to implement a
 7 range of evidence-based and innovative approaches for influencing youth to make healthy
 8 decisions that reduce unintended teen pregnancy and associated risk behaviors. Since establishing
 9 the program, Congress has continuously funded TPP grants at approximately consistent levels and
 10 with the same statutory requirements. *See* Pub. L. 118-47, 138 Stat. 460, 671 (2024); Pub. L. 117-
 11 328, 136 Stat. 4459, 4876 (2022); Pub. L. 117-103, 136 Stat. 49, 463 (2022); Pub. L. 116-260, 134
 12 Stat. 1182, 1587 (2020); Pub. L. 116-94, 133 Stat. 2534, 2575 (2019); Pub. L. 115-245, 132 Stat.
 13 2981, 3087 (2018); Pub. L. 115-31, 131 Stat. 135, 536 (2017); Pub. L. 114-113, 129 Stat. 2242,
 14 2617 (2015); Pub. L. 113-76, 128 Stat. 5, 380 (2014); Pub. L. 113-6, 127 Stat. 198, 412–13 (2013)
 15 (carrying forward prior year's provisos); Pub. L. 112-74, 125 Stat. 786, 1080 (2011); Pub. L. 112-
 16 10, 125 Stat. 38, 161-62 (2011); Pub. L. 111-117, 123 Stat. 3034, 3253 (2009).

17
 18 463. Through these appropriations laws, Congress has established specific requirements
 19 for the TPP program. These requirements group TPP grants into two categories, which HHS refers
 20 to as "Tier 1" and "Tier 2" grants. Jessica Tollestrup, Cong. Rsch. Serv., R45183, *Adolescent*
 21 *Pregnancy: Federal Prevention Programs*, at 7 (Aug. 22, 2024),
 22 https://www.congress.gov/crs_external_products/R/PDF/R45183/R45183.11.pdf.

23
 24 464. Congress has allocated 75% of TPP funds (after administration costs) to Tier 1
 25 grants, which must be used to "replicat[e] programs that have been proven effective through
 26 rigorous evaluation to reduce teenage pregnancy, behavioral risk factors underlying teenage
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1 pregnancy, or other associated risk factors.” Further Consolidated Appropriations Act, 2024, Pub.
2 L. 118-47, 138 Stat. 460, 671.

3 465. The remaining 25% of TPP funds must go toward Tier 2 grants, which are “research
4 and demonstration grants” intended “to develop, replicate, refine, and test additional models and
5 innovative strategies for preventing teenage pregnancy.” *Id.*

6 466. The appropriations laws that establish and fund the TPP program do not authorize
7 HHS to condition Tier 1 or Tier 2 TPP funds on opposition to all forms of DEI, exclusion of
8 transgender people, denying services to immigrants, or adherence to executive orders with no
9 connection to evidence-based prevention of teen pregnancy.

10 467. TPP grant recipients receive funding through two processes: a competitive award
11 cycle, in which they propose and are awarded funding for Tier 1 or Tier 2 programs over a multi-
12 year period, and an annual non-competitive continuing award process in which recipients apply to
13 HHS to receive a one-year continuing award as part of the multi-year project period. HHS
14 regulations codify the procedures governing this practice.

15 468. These regulations are primarily codified at 45 C.F.R. Part 75, which governs the
16 award of grants and cooperative agreements by HHS and its agencies. Pursuant to 45 C.F.R.
17 § 75.203, HHS announces competitions for grants and cooperative agreements, including TPP
18 funding, via a public NOFO.

19 469. HHS regulations do not impose any conditions on TPP funding related to
20 prohibiting all kinds of DEI, exclusion of transgender people, or adherence to executive orders
21 unrelated to teen pregnancy prevention.

22 470. In March 2023, OPA posted a NOFO (“Tier 2 NOFO”) announcing a competitive
23 process for Tier 2 TPP cooperative agreement awards for Fiscal Years 2023–2028. U.S. Dep’t
24
25
26
27
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1 Health & Hum. Servs., Off. Population Affs., Notice of Funding Opportunity: Teen Pregnancy
2 Prevention Tier 2 Rigorous Evaluation Cooperative Agreements (Mar. 14, 2023),
3 <https://apply07.grants.gov/apply/opportunities/instructions/PKG00280464-instructions.pdf>.

4 471. The Tier 2 NOFO stated HHS's goal of using "new and innovative approaches" to
5 "equitably bolster adolescent health outcomes and advance health equity," which HHS stated
6 "requires valuing everyone equally with focused and ongoing societal efforts to address avoidable
7 inequalities, historical and contemporary injustices, and the elimination of health and health care
8 disparities." *Id.* at 6.

9 472. The Tier 2 NOFO did not include any grant conditions or indicate that awards
10 would be conditioned on acceptance of conditions related to prohibiting all kinds of DEI, exclusion
11 of transgender people, or adherence to executive orders unrelated to teen pregnancy prevention.
12

13 **6. Other HHS Grants**

14 473. HHS and its operating divisions and agencies administer a range of other grant
15 programs that some plaintiffs have previously received, currently receive, or are otherwise eligible
16 to receive. Plaintiffs are not aware of Congress ever imposing or authorizing directives for or
17 conditions on these other HHS grants related to a prohibition on all kinds of DEI, exclusion of
18 transgender people, denying services to immigrants, or adherence to executive orders unrelated to
19 the purpose of the grant.
20

21 474. Congress annually appropriates funding for HHS grant programs. In the annual
22 appropriations legislation, Congress sets forth priorities and directives to the Secretary of HHS
23 with respect to funding. Plaintiffs are not aware of Congress ever imposing or authorizing
24 directives for or conditions on HHS grants related to a prohibition on DEI, exclusion of transgender
25 people, denying services to immigrants, or adherence to executive orders unrelated to the purpose
26

of the grant. *See, e.g.*, Consolidated Appropriations Act, 2021, Pub. L. 116-260, 134 Stat. 1523–28, 1567–98; Consolidated Appropriations Act, 2022, Pub. L. 117-103, 136 Stat. 397–402, 441–74; Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat. 4808–13, 4854–87; Consolidated Appropriations Act, 2024, Pub. L. 118-42, 138 Stat. 272–77, 397–419.

475. Plaintiffs King County, Pierce County, Snohomish County, Boston, Columbus, NYC, San Francisco, Santa Clara, Cambridge, Chicago, Denver, Minneapolis, Wilsonville, Alameda County, Baltimore, Cambridge, Dane County, Eugene, Hennepin County, Milwaukee, Multnomah County, Oakland, Pacifica, Pima County, Ramsey County, Rochester, San Mateo County, and Wilsonville (collectively, the “HHS Plaintiffs”) have previously received, currently receive, or are otherwise eligible to receive HHS grants. These Plaintiffs rely on over \$2 billion in appropriated federal funds from HHS direct or pass-through grant programs for health and human services-related projects undertaken for the benefit of their communities.

D. Following President Trump’s Inauguration, Defendants Unilaterally Impose New Conditions on HUD, DOT, and HHS Grant Funds.

1. President Trump Issues Executive Orders Directing Federal Agencies to Impose New Conditions on Federal Grants

476. Since taking office, President Trump has issued numerous executive orders purporting to direct the heads of executive agencies to impose conditions on federal funding that bear little or no connection to the purposes of the grant programs Congress established, lack statutory authorization, conflict with the law as interpreted by the courts, and are even at odds with the purposes of the grants they purport to amend. Instead, the conditions appear to require federal grant recipients to agree to promote the political agenda President Trump campaigned on during his run for office and has continued espousing since, including opposition to all forms of DEI policies and initiatives, participation in aggressive and lawless immigration enforcement,

1 exclusion of transgender people, and cutting off access to lawful abortions. These unlawful
2 conditions are imposed to direct and coerce grant recipients to comply with the President's policy
3 agenda.

4 477. The "Ending Illegal Discrimination and Restoring Merit-Based Opportunity"
5 executive order directs each federal agency head to include "in every contract or grant award" a
6 term that the contractor or grant recipient "certify that it does not operate any programs promoting
7 DEI" that would violate federal antidiscrimination laws. Exec. Order 14173 § 3(b)(iv)(B), 90 Fed.
8 Reg. 8633 (Jan. 21, 2025) (the "DEI Order"). The certification is not limited to programs funded
9 with federal grants. *Id.* § 3(b)(iv).

10
11 478. The DEI Order also directs each agency head to include a term requiring the
12 contractor or grant recipient to agree that its compliance "in all respects" with all applicable federal
13 nondiscrimination laws is "material to the government's payment decisions" for purposes of the
14 False Claims Act (FCA), 31 U.S.C. §§ 3729 et seq. *Id.* § 3(b)(iv)(A). The FCA imposes liability
15 on "any person" who "knowingly presents, or causes to be presented, a false or fraudulent claim
16 for payment or approval." 31 U.S.C. § 3729(a)(1)(A). For FCA liability to attach, the alleged
17 misrepresentation must be "material to the Government's payment decision"—an element the U.S.
18 Supreme Court has called "demanding." *Universal Health Servs., Inc. v. United States ex rel.*
19 *Escobar*, 579 U.S. 176, 192, 194 (2016). Each violation of the FCA is punishable by a civil penalty
20 of up to \$27,894 today—plus mandatory treble damages sustained by the federal government
21 because of that violation. 31 U.S.C. § 3729(a); 28 C.F.R. § 85.5(a). Given the demands of proving
22 materiality and the severity of penalties imposed by the FCA, the certification term represents
23 another effort to coerce compliance with the President's policies by effectively forcing grant
24 recipients to concede an essential element of an FCA claim.

25
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1 479. The DEI Order does not define the term “DEI.” As explained below, subsequent
2 executive agency memoranda and letters make clear that the Trump Administration’s conception
3 of what federal antidiscrimination law requires, including what constitutes a purportedly “illegal”
4 DEI program, is inconsistent with the requirements of federal nondiscrimination statutes as
5 interpreted by the courts.
6

7 480. The “Ending Taxpayer Subsidization of Open Borders” executive order directs all
8 agency heads to ensure “that Federal payments to States and localities do not, by design or effect,
9 facilitate the subsidization or promotion of illegal immigration, or abet so-called ‘sanctuary’
10 policies that seek to shield illegal aliens from deportation.” Executive Order 14218 § 2(ii), 90 Fed.
11 Reg. 10581 (Feb. 19, 2025) (the “Immigration Order”).
12

13 481. The Immigration Order also purports to implement the Personal Responsibility and
14 Work Opportunity Reconciliation Act (PRWORA), pursuant to which certain federal benefits are
15 limited to individuals with qualifying immigration status. *See* 8 U.S.C. § 1611(a). In particular, the
16 Immigration Order directs all agency heads to “identify all federally funded programs administered
17 by the agency that currently permit illegal aliens to obtain any cash or non-cash public benefit”
18 and “take all appropriate actions to align such programs with the purposes of this order and the
19 requirements of applicable Federal law, including . . . PRWORA.” *Id.* § 2(i).
20

21 482. On April 28, 2025, President Trump issued additional executive orders related to
22 immigration and law enforcement. The “Protecting American Communities from Criminal Aliens”
23 executive order states that “some State and local officials . . . continue to use their authority to
24 violate, obstruct, and defy the enforcement of Federal immigration laws” and directs the Attorney
25 General in coordination with the Secretary of Homeland Security to identify “sanctuary
26 jurisdictions,” take steps to withhold federal funding from such places, and develop “mechanisms
27

1 to ensure appropriate eligibility verification is conducted for individuals receiving Federal public
 2 benefits . . . from private entities in a sanctuary jurisdiction, whether such verification is conducted
 3 by the private entity or by a governmental entity on its behalf.”
 4 [https://www.whitehouse.gov/presidential-actions/2025/04/protecting-american-communities-](https://www.whitehouse.gov/presidential-actions/2025/04/protecting-american-communities-from-criminal-aliens/)
 5 [from-criminal-aliens/](https://www.whitehouse.gov/presidential-actions/2025/04/protecting-american-communities-from-criminal-aliens/). The “Strengthening and Unleashing America’s Law Enforcement to Pursue
 6 Criminals and Protect Innocent Citizens” executive order directs the Attorney General to, among
 7 other things, “prioritize prosecution of any applicable violations of Federal criminal law with
 8 respect to State and local jurisdictions” whose officials “willfully and unlawfully direct the
 9 obstruction of criminal law, including by directly and unlawfully prohibiting law enforcement
 10 officers from carrying out duties necessary for public safety and law enforcement” or “unlawfully
 11 engage in discrimination or civil-rights violations under the guise of “diversity, equity, and
 12 inclusion” initiatives that restrict law enforcement activity or endanger citizens.”
 13 [https://www.whitehouse.gov/presidential-actions/2025/04/strengthening-and-unleashing-](https://www.whitehouse.gov/presidential-actions/2025/04/strengthening-and-unleashing-americas-law-enforcement-to-pursue-criminals-and-protect-innocent-citizens/)
 14 [americas-law-enforcement-to-pursue-criminals-and-protect-innocent-citizens/](https://www.whitehouse.gov/presidential-actions/2025/04/strengthening-and-unleashing-americas-law-enforcement-to-pursue-criminals-and-protect-innocent-citizens/).

17 483. The “Defending Women from Gender Ideology Extremism and Restoring
 18 Biological Truth to the Federal Government” executive order directs agency heads to “take all
 19 necessary steps, as permitted by law, to end the Federal funding of gender ideology” and “assess
 20 grant conditions and grantee preferences” to “ensure grant funds do not promote gender ideology.”
 21 Exec. Order No. 14168 § 3(e), (g), 90 Fed. Reg. 8615 (Jan. 20, 2025) (the “Gender Ideology
 22 Order”). The Gender Ideology Order states that “[g]ender ideology’ replaces the biological
 23 category of sex with an ever-shifting concept of self-assessed gender identity, permitting the false
 24 claim that males can identify as and thus become women and vice versa, and requiring all
 25 institutions of society to regard this false claim as true.” *Id.* § 2(f). It goes on to state that “[g]ender

1 ideology includes the idea that there is a vast spectrum of genders that are disconnected from one's
 2 sex" and is therefore "internally inconsistent, in that it diminishes sex as an identifiable or useful
 3 category but nevertheless maintains that it is possible for a person to be born in the wrong sexed
 4 body." *Id.*

5
 6 484. The "Enforcing the Hyde Amendment" executive order declares it the policy of the
 7 United States "to end the forced use of Federal taxpayer dollars to fund or promote elective
 8 abortion." Exec. Order No. 14182, 90 Fed. Reg. 8751 (Jan. 24, 2025) (the "Abortion Order"). The
 9 Acting Director of the U.S. Office of Management and Budget (OMB) issued a memorandum to
 10 the heads of the executive agencies providing guidance on how agencies should implement the
 11 Abortion Order. Memorandum from Acting Director of OMB Matthew J. Vaeth to Heads of
 12 Executive Departments and Agencies (Jan. 24, 2025), [https://www.whitehouse.gov/wp-](https://www.whitehouse.gov/wp-content/uploads/2025/03/M-25-12-Memorandum-on-Hyde-Amendment-EO.pdf)
 13 [content/uploads/2025/03/M-25-12-Memorandum-on-Hyde-Amendment-EO.pdf](https://www.whitehouse.gov/wp-content/uploads/2025/03/M-25-12-Memorandum-on-Hyde-Amendment-EO.pdf) (the "OMB
 14 Memo"). The OMB Memo told agency heads that the Trump Administration's policy is "not to
 15 use taxpayer funds to fund, facilitate, *or promote* abortion, including travel or transportation to
 16 obtain an abortion, consistent with the Hyde Amendment and other statutory restrictions on
 17 taxpayer funding for abortion." *Id.* (emphasis added). The OMB Memo further instructed agency
 18 heads to "reevaluate" policies and other actions to conform with the Abortion Funding Order, audit
 19 federally funded activities suspected to contravene the Abortion Funding Order, and submit a
 20 monthly report to OMB on each agency's progress in implementing the OMB Memo. *Id.*

23 **2. HUD and Its Program Offices Attach New, Unlawful Conditions to** 24 **HUD Grants**

25 485. HUD and its program offices have implemented President Trump's Executive
 26 Orders by making changes to HUD policy and attaching, or announcing that it will attach, new

1 and unlawful conditions (collectively, the “HUD Grant Conditions”) across the expansive portfolio
 2 of HUD grants established by Congress and demanding grant recipients’ agreement to those new
 3 conditions in grant application and agreements.

4 *a.) HUD attaches new, unlawful conditions to CoC grants*

5 486. In or around March and April of 2025, following President Trump’s issuance of the
 6 executive orders described above and Defendant Turner’s confirmation as HUD Secretary, HUD
 7 presented CoC Plaintiffs with CoC grant agreements (collectively, the “CoC Grant Agreements”) for
 8 some of the CoC funds CoC Plaintiffs were awarded. These CoC Grant Agreements contain
 9 additional grant conditions that were not included in the FYs 2024 & 2025 NOFO, and are not
 10 authorized by the Homeless Assistance Act, the Appropriations Act, or the Rule HUD itself
 11 promulgated to implement the CoC program. HUD has required CoC Plaintiffs agree to these
 12 conditions to receive the CoC funds they are entitled to.
 13

14 (i.) *Overview of New, Unlawful Conditions*

15 487. Each of the CoC Grant Agreements presented to CoC Plaintiffs contains
 16 substantially the same unlawful, new terms and conditions, including the following (collectively,
 17 the “CoC Grant Conditions”):
 18

19 488. First, the CoC Grant Agreements state that “[t]his Agreement, the Recipient’s use
 20 of funds provided under this Agreement . . . , and the Recipient’s operation of projects assisted
 21 with Grant Funds” are “governed by” not only certain specified statutes, rules, and grant-related
 22 documents, but also by “all current Executive Orders.” The CoC Grant Agreements further require
 23 recipients to comply with “applicable requirements that . . . may [be] establish[ed] from time to
 24 time to comply with . . . other Executive Orders” (together, the “CoC EO Condition”).
 25

26 489. Second, a grant recipient must certify that:

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1 it does not operate any programs that violate any applicable Federal
2 anti-discrimination laws, including Title VI of the Civil Rights Act
3 of 1964.

4 The recipient must further agree that that this condition is “material” for purposes of the FCA by
5 agreeing that:

6 its compliance in all respects with all applicable Federal anti-
7 discrimination laws is material to the U.S. Government’s payment
8 decisions for purposes of [the FCA].

(together, the “CoC Discrimination Condition”).

9 490. While CoC Plaintiffs have routinely certified compliance with federal
10 nondiscrimination laws as a condition of federal funding in the past, the Administration’s
11 communications to federal grant recipients make clear that the agencies seek compliance with the
12 Trump Administration’s novel, incorrect, and unsupported interpretation of federal
13 nondiscrimination law as barring any and all DEI programs. Without Congress passing his anti-
14 DEI agenda, President Trump instead purports to have granted himself unchecked Article II
15 powers to legislate by executive order and impose his decrees on state and local governments
16 seeking grant funding.

18 491. Third, the CoC Grant Agreements provide:

19 No state or unit of general local government that receives funding
20 under this grant may use that funding in a manner that by design or
21 effect facilitates the subsidization or promotion of illegal
22 immigration or abets policies that seek to shield illegal aliens from
23 deportation

1 The CoC Grant Agreements further require recipients to comply with “applicable requirements
 2 that . . . may [be] establish[ed] from time to time to comply with . . . [the Immigration Order] . . or
 3 immigration laws ” (together, the “CoC Enforcement Condition”).³

4 492. Fourth, the CoC Grant Agreements impose requirements purportedly related to
 5 PRWORA and other immigration eligibility and verification requirements:
 6

7 The recipient must administer its grant in accordance with all
 8 applicable immigration restrictions and requirements, including the
 9 eligibility and verification requirements that apply under title IV of
 10 [PRWORA] and any applicable requirements that HUD, the
 11 Attorney General, or the U.S. Center for Immigration Services [*sic*]
 may establish from time to time to comply with PRWORA,
 Executive Order 14218, or other Executive Orders or immigration
 laws.

12

13 Subject to the exceptions provided by PRWORA, the recipient must
 14 use [the Systematic Alien Verification for Entitlements (SAVE)
 15 system], or an equivalent verification system approved by the
 16 Federal government, to prevent any Federal public benefit from
 being provided to an ineligible alien who entered the United States
 illegally or is otherwise unlawfully present in the United States.

17 (the “CoC Verification Condition”).

18 493. Fifth, the CoC Grant Agreements require the recipient to agree that it “shall not use
 19 grant funds to promote ‘gender ideology,’ as defined in” the Gender Ideology Order (the “CoC
 20 Gender Ideology Condition”).

21 494. Finally, the CoC Grant Agreements require the recipient to agree that it “shall not
 22 use any Grant Funds to fund or promote elective abortions, as required by” the Abortion Order
 23

24
 25
 26 ³ More recent grant agreements contain updated language that precisely recites the Immigration
 27 Order. In these, the last part of this condition reads “...or abets *so-called* “sanctuary” policies that
 seek to shield illegal aliens from deportation.

1 (the “CoC Abortion Condition”).

2 495. These conditions are unconstitutional and unlawful for several reasons. As an initial
3 matter, neither the Homeless Assistance Act, the Appropriations Act, PRWORA, nor any other
4 legislation authorizes HUD to attach these conditions to federal funds appropriated for CoC grants.

5 (ii.) *The CoC EO Condition is unlawful*

6 496. The CoC EO Condition purports to incorporate *all* executive orders as
7 “govern[ing]” the use of CoC funds and operation of CoC projects. These orders in many ways
8 purport to adopt new laws by presidential fiat, amend existing laws, and overturn court precedent
9 interpreting laws. In so doing, the CoC EO Condition seeks to usurp Congress’s prerogative to
10 legislate and its power of the purse, as well as the judiciary’s power to say what the law means.

11 497. Further, the CoC EO Condition is unconstitutionally vague. Executive orders are
12 the President’s directives to federal agencies. These orders are unintelligible as applied to grant
13 recipients. Further, the directives as implemented in the unlawful conditions at issue are vague and
14 unintelligible.

15 (iii.) *The CoC Discrimination Condition is unlawful*

16 498. CoC Plaintiffs have routinely certified compliance with federal nondiscrimination
17 laws as a condition of federal funding. But executive agency memoranda and letters make clear
18 that the Trump Administration’s conception of an “illegal” DEI program is contrary to actual
19 nondiscrimination statutes and is inconsistent with what any court has endorsed when interpreting them.

20 499. For instance, a February 5, 2025 letter from Attorney General Pam Bondi to DOJ
21 employees states that DOJ’s Civil Rights Division will “penalize” and “eliminate” “illegal DEI
22 and DEIA” activities and asserts that such activities include any program that “divide[s]
23 individuals based on race or sex”—potentially reaching affinity groups or teaching about racial

1 history. Letter from Pam Bondi, Attorney General, to all DOJ Employees (Feb. 5, 2025),
 2 <https://www.justice.gov/ag/media/1388501/dl?inline>.

3 500. That broad conception is confirmed in a letter from DOT Secretary Sean Duffy to
 4 all recipients of DOT funding stating that “[w]hether or not described in neutral terms, any policy,
 5 program, or activity that is premised on a prohibited classification, including discriminatory
 6 policies or practices designed to achieve so-called [DEI] goals, presumptively violates Federal
 7 Law.” Letter from Sean Duffy, DOT Secretary, to All Recipients of DOT Funding (April 24, 2025)
 8 (“Duffy Letter”), [https://www.transportation.gov/sites/dot.gov/files/2025-](https://www.transportation.gov/sites/dot.gov/files/2025-04/Follow%20the%20Law%20Letter%20to%20Applicants%204.24.25.pdf)
 9 [04/Follow%20the%20Law%20Letter%20to%20Applicants%204.24.25.pdf](https://www.transportation.gov/sites/dot.gov/files/2025-04/Follow%20the%20Law%20Letter%20to%20Applicants%204.24.25.pdf).
 10

11 501. Defendant Turner has stated that “HUD is carrying out Present Trump’s executive
 12 orders, mission, and agenda,” by “[a]lign[ing] all programs, trainings, and *grant agreements* with
 13 the President’s Executive Orders, removing diversity, equity, inclusion (DEI).” Press Release No.
 14 25-059, *HUD Delivers Mission-Minded Results in Trump Administration’s First 100 Days*,
 15 <https://www.hud.gov/news/hud-no-25-059> (emphasis added).
 16

17 502. Taking to the Twitter platform now known as “X,” Defendant Turner expressed
 18 how his agency intends to enforce the new conditions on HUD CoC Grants, stating, “CoC
 19 funds . . . will not promote DEI, enforce ‘gender ideology,’ support abortion, subsidize illegal
 20 immigration, and discriminate against faith-based groups.” Scott Turner Post of Mar. 13, 2025,
 21 <https://x.com/SecretaryTurner/status/1900257331184570703>.
 22

23 503. Neither the text of Title VI, nor any other statute or other condition enacted by
 24 Congress, prohibits recipients of federal funding from according concern to issues of diversity,
 25 equity, or inclusion. The Supreme Court has never interpreted Title VI to prohibit diversity, equity,
 26 and inclusion programs. Indeed, existing case law rejects the Trump Administration’s expansive
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views on nondiscrimination law with respect to DEI. For example, this Court recently confirmed the lawfulness of a local government’s use of affinity groups and DEI initiatives in a case raising federal nondiscrimination law and equal protection claims. *See generally Diemert v. City of Seattle*, 2:22-CV-1640, 2025 WL 446753 (W.D. Wash. Feb. 10, 2025). The President has no authority to declare, let alone change, federal nondiscrimination law by executive fiat. Yet, the DEI Order seeks to impose his views on DEI as if they were the law by using federal grant conditions and the threat of FCA enforcement to direct and coerce federal grant recipients into acquiescing in his Administration’s unorthodox legal interpretation of nondiscrimination law.

504. Accepting these conditions would permit Defendants to threaten CoC Plaintiffs with burdensome and costly enforcement action, backed by the FCA’s steep penalties, if they refuse to align their activities with President Trump’s political agenda. This threat is intensified by the CoC Grant Agreements’ provision that purports to have recipients concede the DEI certification’s “materiality”—an otherwise “demanding” element of an FCA claim. Further, even short of bringing a suit, the FCA authorizes the Attorney General to serve civil investigative demands on anyone reasonably believed to have information related to a false claim—a power that could be abused to target grant recipients with DEI initiatives the Trump Administration disapproves of. *Id.* § 3733.

505. The FCA is intended to discourage and remedy fraud perpetrated against the United States—not to serve as a tool for the Executive to impose unilateral changes to nondiscrimination law, which is instead within the province of Congress in adopting the laws and the Judiciary in interpreting them.

(iv.) *The CoC Enforcement Condition is unlawful*

506. Congress has not delegated to HUD authority to condition CoC grant funding on a

1 recipient's agreement not to "promot[e] . . . illegal immigration" or "abet[]" policies that seek to
 2 shield illegal aliens from deportation." It also is unclear what type of conduct this might
 3 encompass, leaving federal grant recipients without fair notice of what activities would violate the
 4 prohibition and by giving agencies free rein to arbitrarily enforce it.

5
 6 507. Indeed, on April 24, 2025, Judge William H. Orrick of the United States District
 7 Court for the Northern District of California preliminarily enjoined the federal government from
 8 "directly or indirectly taking any action to withhold, freeze, or condition federal funds from"
 9 sixteen cities and counties—including Plaintiffs King County, San Francisco, Santa Clara,
 10 Minneapolis, Portland, and San José—on the basis of Section 2(a)(ii) of the Immigration Order,
 11 which directs that no "Federal payments" be made to states and localities if the "effect," even
 12 unintended, is to fund activities that the Administration deems to "facilitate" illegal immigration
 13 or "abet so-called 'sanctuary' policies." *City & Cnty. of San Francisco v. Trump*, 25-CV-01350-
 14 WHO, 2025 WL 1186310 (N.D. Cal. Apr. 24, 2025). The court ruled that the direction "to
 15 withhold, freeze, or condition federal funding apportioned to localities by Congress, violate[s] the
 16 Constitution's separation of powers principles and the Spending Clause"; "violate[s] the Fifth
 17 Amendment to the extent [it is] unconstitutionally vague and violate[s] due process"; and
 18 "violate[s] the Tenth Amendment because [it] impose[s] [a] coercive condition intended to
 19 commandeer local officials into enforcing federal immigration practices and law." *Id.* at *2.

20
 21
 22 (v.) *The CoC Verification Condition is unlawful*

23 508. Further, PRWORA does not authorize the CoC Verification Condition for at least
 24 two reasons. First, PRWORA explicitly does *not* require states to have an immigration status
 25 verification system until twenty-four months after the Attorney General promulgates certain final
 26 regulations. 8 U.S.C. § 1642(b). Those regulations must, among other things, establish procedures

by which states and local governments may verify eligibility and procedures for applicants to prove citizenship “in a fair and nondiscriminatory manner.” *Id.* § 1642(b)(ii), (iii). The Attorney General has issued interim guidance and a proposed verification rule, but never implemented a final rule. *See* Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 62 Fed. Reg. 61344 (Nov. 17, 1997); Verification of Eligibility for Public Benefits, 63 Fed. Reg. 41662 (Aug. 4, 1998) (proposed rule). This failure to promulgate a final regulation left in place DOJ’s Interim Guidance, which requires only the examination of identity and immigration documentation. 62 Fed. Reg. at 61348–49. Absent implementing regulations, CoC Plaintiffs are not required to verify participants’ immigration status using SAVE or an equivalent verification system. *See* 42 U.S.C. § 1320b-7. Requiring recipients to do so exceeds the authority created in PRWORA.

509. Second, SAVE is a database operated by the U.S. Department of Homeland Security, acting through U.S. Citizenship and Immigration Services, that is sometimes used to assist federal immigration enforcement actions. The CoC Verification Condition would require CoC Plaintiffs to gain access to this system, train their own employees how to use the system, and require them to enter immigration information. Such an effort to commandeer local resources for matters related to federal immigration enforcement is counter to federal law, as well as applicable local and state laws precluding local participation in federal immigration enforcement.

(vi.) *The CoC Gender Ideology Condition is unlawful*

510. The CoC Gender Ideology Condition improperly seeks to force federal grant recipients to no longer recognize transgender, gender diverse, and intersex people by restricting funding that promotes “gender ideology.” This violates HUD’s own regulations, which mandate

1 “equal access” to CoC “programs, shelters, other buildings and facilities, benefits, services, and
 2 accommodations is provided to an individual in accordance with the individual’s gender identity,
 3 and in a manner that affords equal access to the individual’s family,” including facilities with
 4 “shared sleeping quarters or shared bathing facilities.” 24 C.F.R. § 5.106(b)–(c). HUD regulations
 5 also prohibit subjecting an individual “to intrusive questioning or” asking individuals “to provide
 6 anatomical information or documentary, physical, or medical evidence of the individual’s gender
 7 identity.” *Id.* § 5.106(b)(3). While Defendant Turner announced HUD will no longer enforce these
 8 regulations, the regulations remain in effect and applicable to the CoC program.

10 511. The CoC Gender Ideology Condition is also vague. The definition of “gender
 11 ideology” is not only demeaning, but also idiosyncratic and unscientific. Further, given the
 12 expansive meaning of “promote,” federal agencies have free rein to punish recipients who merely
 13 collect information on gender identity, which has long been authorized and encouraged by HUD
 14 in its binding regulations, as such information can be used to improve the quality and efficacy of
 15 homeless services.

17 512. The Trump Administration has already terminated federal funding as a result of
 18 agency action carrying out the Gender Ideology Order and related executive orders. For example,
 19 one of the largest free and reduced-cost healthcare providers in Los Angeles reported that the U.S.
 20 Centers for Disease Control and Prevention (CDC) terminated a \$1.6 million grant that would have
 21 supported the clinic’s transgender health and social health services program. The CDC ended the
 22 grant in order to comply with the Gender Ideology Order. *See* Kristen Hwang, *LA clinics lose*
 23 *funding for transgender health care as Trump executive orders take hold*, Cal Matters (Feb. 4,
 24 2025), <https://calmatters.org/health/2025/02/trump-executive-order-transgender-health/>.

26 513. On February 28, 2025, this Court enjoined enforcement of the Gender Ideology
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Order in part (including parts the Gender Ideology Condition incorporates by references), holding that the plaintiffs had shown a likelihood of success on their claims that the Order violates the Fifth Amendment’s guarantee of equal protection and the separation of powers. *Wash. v. Trump*, 2:25-CV-00244-LK, 2025 WL 659057, at *11–17, *24–25 (W.D. Wash. Feb. 28, 2025). Particularly relevant here, the Court ruled that the plaintiffs were likely to succeed in showing that “[b]y attaching conditions to federal funding that were . . . unauthorized by Congress,” subsections 3(e) and (g) of the Gender Ideology Order “usurp Congress’s spending, appropriation, and legislative powers.” *Id.* at *11. The Court explained that the Gender Ideology Order “reflects a ‘bare desire to harm a politically unpopular group’” by “deny[ing] and denigrat[ing] the very existence of transgender people.” *Id.* at *24 (citation omitted).

(vii.) *The CoC Abortion Condition is unlawful*

514. The CoC Abortion Condition (including the Abortion Order incorporated by reference) does not implement, but rather exceeds, the Hyde Amendment’s narrow prohibition on using federal funds to pay for, or require others to perform or facilitate, abortions. While it purports to apply the Hyde Amendment—a provision that has been enacted in successive appropriations acts that limits the use of federal funds for abortions (subject to narrow exceptions)—in reality it goes well beyond the Hyde Amendment. The Hyde Amendment to the 2024 Appropriations Act specifically and narrowly prohibits the use of appropriated funds to “require any person to perform, or facilitate in any way the performance of, any abortion” or to “pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape or incest.” Pub. L. 118-42, §§ 202, 203, 138 Stat. 25 (March 9, 2024). But the Hyde Amendment to the 2024 Appropriations Act does not require grant recipients to refrain from “*promot[ing]* abortion”—a vague prohibition that is susceptible to arbitrary enforcement. And in doing so, the

1 Abortion Condition usurps Congress's spending, appropriations, and legislative power.

2 515. In sum and as further explained below, HUD's imposition of the CoC Grant
3 Conditions violates the Separation of Powers, the Spending Clause, the Fifth Amendment's void-
4 for-vagueness doctrine, and the APA.

5 *b.) HUD issues new policy terms for all financial assistance*
6 *incorporating the unlawful conditions*

7 516. In or around April 2025, HUD amended its General Administrative, National, and
8 Departmental Policy Requirements and Terms for HUD's Financial Assistance Programs (the
9 "HUD Policy Terms"), which set forth "various laws and policies that may apply to recipients of"
10 HUD grant awards. This document is posted on HUD's website at
11 [https://www.hud.gov/sites/default/files/CFO/documents/Administrative-Requirements-](https://www.hud.gov/sites/default/files/CFO/documents/Administrative-Requirements-Addendum-FY2025.pdf)
12 [Addendum-FY2025.pdf](https://www.hud.gov/sites/default/files/CFO/documents/Administrative-Requirements-Addendum-FY2025.pdf). Among such potentially applicable policies, the document lists several
13 of President Trump's executive orders as well as language materially the same as the CoC Grant
14 Conditions.
15

16 517. For example, in a section labelled "Compliance with Immigration Requirements,"
17 the HUD Policy Terms list the Immigration Order and summarize the potentially applicable policy
18 in materially identical language as the CoC Verification Condition:
19

20 The recipient must administer its award in accordance with all
21 applicable immigration restrictions and requirements, including the
22 eligibility and verification requirements that apply under
23 [PRWORA] and any applicable requirements that HUD, the
24 Attorney General, or the U.S. Citizenship and Immigration Services
may establish from time to time to comply with PRWORA,
Executive Order 14218, or other Executive Orders or immigration
laws.

25

Subject to the exceptions provided by PRWORA, the recipient must use SAVE, or an equivalent verification system approved by the Federal government, to prevent any Federal public benefit from being provided to an ineligible alien who entered the United States illegally or is otherwise unlawfully present in the United States.

518. In the same section, the HUD Policy Terms include a policy substantially identical to the CoC Enforcement Condition:

No state or unit of general local government that receives HUD funding under may use that funding in a manner that by design or effect facilitates the subsidization or promotion of illegal immigration or abets policies that seek to shield illegal aliens from deportation.

519. Next, in a section labelled “Other Presidential Executive Actions Affecting Federal Financial Assistance Programs,” HUD Policy Terms state that “Recipients of Federal Awards *must* comply with applicable existing and future Executive Orders, as advised by the Department, including but not limited to . . . :” (emphasis added), followed by a “non-exhaustive list” of nine executive orders—including the Immigration Order, the Abortion Order, the DEI Order, and the Gender Ideology Order—as “applicable” conditions.

520. The HUD Policy Terms then summarize the potentially applicable policies reflected in those executive orders in language materially similar to several CoC Grant Conditions:

- a. First, the HUD Policy Terms state that the Immigration Order “prohibits taxpayer resources and benefits from going to unqualified aliens.”
- b. Second, the HUD Policy Terms summarize the Abortion Order as “prohibit[ing] the use of Federal taxpayer dollars to fund or promote elective abortion.”
- c. Third, the HUD Policy Terms state that the DEI Order “requires Federal agencies to terminate all discriminatory and illegal preferences.”

d. Fourth, the HUD Policy Terms summary the Gender Ideology Order as “set[ting] forth U.S. policy recognizing two sexes, male and female.”

521. These requirements outlined in the HUD Policy Terms are unlawful for the same reasons the nearly identical CoC Grant Conditions are unlawful, as explained above. In particular, and as explained further below, the requirements violate the Separation of Powers, the Spending Clause, the Fifth Amendment’s void-for-vagueness doctrine, and the APA.

c.) HUD attaches a new, unlawful anti-DEI certification to its standard assurances and certifications

522. In or around May 2025, HUD updated its standard Applicant and Recipient Assurances and Certifications (the “HUD Certifications”) on Form HUD-424-B, which must be submitted as part of any application for HUD funding or post-award submission. These changes implemented President Trump’s executive orders, including the DEI Order, by imposing a new anti-DEI certification that is not authorized by any of the statutes that establish HUD grant programs, any appropriations law appropriating funds for HUD grant programs, or HUD’s own regulations. In particular, the HUD Certifications require HUD grant applicants to certify that the applicant:

Will not use Federal funding to promote diversity, equity, and inclusion (DEI) mandates, policies, programs, or activities that violate any applicable Federal antidiscrimination laws.

523. This certification is unlawful for the same reasons as the nearly identical CoC DEI Condition. In particular, and as explained further below, the anti-DEI certification violates the Separation of Powers, the Spending Clause, the Fifth Amendment’s void-for-vagueness doctrine, and the APA.

d.) HUD announces it will attach new, unlawful conditions to Office of Community Planning and Development grants

524. In or around June 2025, HUD’s Office of Community Planning and Development (CPD), which administers the CoC, CDBG, ESG, HOME, and HOPWA programs, among others, issued guidance announcing that it will attach new conditions substantially identical to the CoC Grant Conditions to Fiscal Year 2025 agreements governing all CPD-administered grants.

525. In particular, on June 5, 2025, CPD General Deputy Assistant Secretary Claudette Fernandez issued a letter to the executive directors of two organizations representing states and local jurisdictions that administer CPD grant programs (the “Fernandez Letter”). The Fernandez Letter states that CPD “[g]rantees are . . . encouraged to review the White House Executive Orders as they develop their consolidated plan and annual action plans,” which are required under the CDBG, HOME, HOPWA, and ESG programs. Letter from Claudette Fernandez, Acting Director, CPD General Deputy Assistant Secretary, to Council of State Community Development Agencies and National Community Development Association (June 5, 2025), <https://ncdaonline.org/wp-content/uploads/2025/06/6-5-2025-HUD-Response-to-COSCA-NCDA.pdf>.

526. The Fernandez Letter goes on to state that “FY2025 grant agreement[s]” that are issued after a recipient submits their consolidated and action plans will “emphasize conformity with applicable Administration priorities and executive orders.” It clarifies that, “[u]nder the FY 2025 grant agreement, conformity means” that the recipient will be required to abide by a list of specific conditions. These include the following (collectively, the “CPD Grant Conditions”):

527. First, grant recipients will be required to agree not to “not use grant funds to promote ‘gender ideology,’ as defined in [the Gender Ideology Order]” (the “CPD Gender Ideology Condition”).

528. Second, each recipient must “certif[y] that it does not operate any programs that violate any applicable Federal antidiscrimination laws, including Title VI of the Civil Rights Act of 1964.” Each recipient must also “agree[] that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the U.S. Government’s payment decisions for purposes of [the FCA]” (together, the “CPD Discrimination Condition”).

529. Third, grant recipients must agree that:

[i]f applicable, no state or unit of general local government that receives funding under this grant may use that funding in a manner that by design or effect facilitates the subsidization or promotion of illegal immigration or abets policies that seek to shield illegal aliens from deportation.

(the “CPD Enforcement Condition”).

530. Fourth, each recipient must agree to conditions purportedly related to PRWORA and other immigration eligibility and verification requirements, specifically:

The Grantee must administer its grant in accordance with all applicable immigration restrictions and requirements, including the eligibility and verification requirements that apply under title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended (8 U.S.C. 1601-1646) (PRWORA) and any applicable requirements that HUD, the Attorney General, or the U.S. Citizenship and Immigration Services may establish from time to time to comply with PRWORA, Executive Order 14218, or other Executive Orders or immigration laws.

....

Unless excepted by PRWORA, the Grantee must use SAVE, or an equivalent verification system approved by the Federal government, to prevent any Federal public benefit from being provided to an ineligible alien who entered the United States illegally or is otherwise unlawfully present in the United States.

(together, the “CPD Verification Condition”).

531. Fifth, “[u]nless excepted by PRWORA,” grant recipients “must use SAVE, or an

equivalent verification system approved by the Federal government, to prevent any Federal public benefit from being provided to an ineligible alien who entered the United States illegally or is otherwise unlawfully present in the United States.”

532. Finally, grant recipients must agree that they will “not use any grant funds to fund or promote elective abortions, as required by [the Abortion Order]” (the “CPD Abortion Condition”).

533. In addition to imposing these conditions through grant agreements, HUD is threatening to disapprove consolidated plans—including plans that have already been submitted—unless jurisdictions resubmit revised plans that (1) include assurances that the jurisdictions will comply with the CPD Grant Conditions and (2) strip the plans of certain words that HUD claims, in and of themselves, violate the related EOs, such as “equity” and “environmental justice.” HUD is requiring these revisions and commitments with as little as 24 hours’ notice.

534. The CPD Grant Conditions are unlawful for the same reasons the nearly identical CoC Grant Conditions are unlawful, as explained above. In particular, and as explained further below, the CPD Grant Conditions violate the Separation of Powers, the Spending Clause, the Fifth Amendment’s void-for-vagueness doctrine, and the APA.

3. DOT and its Operating Administrations Attach New, Unlawful Conditions to DOT Grants

535. Since Secretary Duffy’s confirmation, DOT and its operating administrations have implemented President Trump’s Executive Orders by attaching new and unlawful conditions (collectively, the “DOT Grant Conditions”) across the expansive portfolio of DOT grants established by Congress; demanding grant recipients’ agreement to those new conditions, sometimes on very short timelines; and issuing agency-wide letters and statements about how DOT

1 will enforce those conditions.

2 536. As discussed above, the Duffy Letter issued to “all recipients” of DOT funding
 3 announced DOT’s “policy” of imposing immigration enforcement and anti-DEI conditions on all
 4 DOT-funded grants as a requirement of receiving funding. The Duffy Letter makes clear that DOT
 5 interprets federal nondiscrimination law to presumptively prohibit “any policy, program, or
 6 activity that is premised on a prohibited classification, including discriminatory policies or
 7 practices designed to achieve so-called [DEI] goals.” It further asserts that recipients’ “legal
 8 obligations require cooperation generally with Federal authorities in the enforcement of Federal
 9 law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement
 10 (ICE) and other Federal offices and components of the Department of Homeland Security in the
 11 enforcement of Federal immigration law.”
 12

13
 14 537. Pursuant to the new policy set forth in the Duffy Letter, DOT and its operating
 15 administrations have, in recent weeks, attached substantially similar conditions relating to
 16 discrimination, immigration enforcement, and executive orders to all grant agreements.

17 *a.) DOT and the FTA attach new, unlawful conditions to FTA*
 18 *Grants*

19 538. For instance, on March 26, 2025, the FTA issued an updated Master Agreement
 20 applicable to all funding awards authorized under specified federal statutes, including the four
 21 FTA grant programs discussed above.

22 539. The March 26 Master Agreement imposed a new condition on all FTA grants
 23 implementing President Trump’s directive, as set out in the DEI Order, to condition federal grant
 24 funds on recipients’ agreement not to promote DEI and to concede this requirement is material for
 25 purposes of the FCA (“FTA Discrimination Condition”). While FTA grants have long required
 26

1 compliance with nondiscrimination laws and have been subject to the FCA, the March 26 Master
2 Agreement provided:

3 (1) Pursuant to section (3)(b)(iv)(A), Executive Order 14173,
4 Ending Illegal Discrimination and Restoring Merit-Based
5 Opportunity, the Recipient agrees that its compliance in all respects
6 with all applicable Federal antidiscrimination laws is material to the
government's payment decisions for purposes of [the FCA].

7 (2) Pursuant to section (3)(b)(iv)(B), Executive Order 14173,
8 Ending Illegal Discrimination and Restoring Merit-Based
9 Opportunity, by entering into this Agreement, the Recipient certifies
10 that it does not operate any programs promoting diversity, equity,
and inclusion (DEI) initiatives that violate any applicable Federal
anti-discrimination laws.

11 540. That the FTA plans to enforce these new conditions more broadly than current
12 nondiscrimination law is reinforced by the March 26 Master Agreement's requirement that the
13 recipient "comply with other applicable federal nondiscrimination laws, regulations, and
14 requirements, and follow *federal guidance prohibiting discrimination*."

15 541. The FTA Discrimination Condition is in apparent tension with other requirements
16 in the March 26 Master Agreement. For example, the March 26 Master Agreement requires
17 compliance with 2 C.F.R. § 300.321, which states, "[w]hen possible, the recipient or subrecipient
18 should ensure that small businesses, minority businesses, women's business enterprises, veteran-
19 owned businesses, and labor surplus area firms" are, *inter alia*, "included on solicitation lists" and
20 "solicited" when "deemed eligible."
21

22 542. The FTA Discrimination Condition is also in apparent tension with DOT's own
23 regulations. For example, 49 C.F.R. 21.5, which prohibits discrimination, states, "[w]here prior
24 discriminatory practice or usage tends, on the grounds of race, color, or national origin to exclude
25 individuals from participation in, to deny them the benefits of, or to subject them to discrimination
26

1 under any program or activity . . . the applicant or recipient must take affirmative action to remove
2 or overcome the effects of the prior discriminatory practice or usage.” 49 C.F.R. 21.5(b)(7).

3 543. Further, the March 26 Master Agreement defined “Federal Requirement” to include
4 “[a]n applicable federal law, regulation, or *executive order*” (the “FTA EO Condition”). The
5 March 26 Master Agreement refers to President Trump’s DEI Order as an executive order
6 “pursuant to” which the recipient must comply and certify, with no explanation of how the DEI
7 Order relates to funding of mass transit.
8

9 544. The Duffy Letter to all recipients of DOT grants (including the FTA grants) further
10 addresses the broad scope of the Administration’s anti-DEI agenda and how it expands and
11 conflicts with established interpretations of federal nondiscrimination law, taking the position that
12 any policy, program, or activity “designed to achieve so-called [DEI] goals”—even if “described
13 in neutral terms”—“presumptively” violates federal nondiscrimination laws. The Duffy Letter also
14 threatens “vigorous[] enforcement,” ranging from comprehensive audits, claw-back of grant funds,
15 and termination of grant awards to enforcement actions and loss of any future federal funding from
16 DOT.
17

18 545. On April 25, 2025, the FTA issued another updated Master Agreement applicable
19 to all funding awards authorized under specified federal statutes, including the four FTA grant
20 programs discussed above.
21

22 546. The April 25 Master Agreement (“FTA Master Agreement”) contains the same
23 FTA Discrimination Condition and the same FTA EO Condition set forth above. But the FTA
24 Master Agreement contains an additional condition requiring recipients to cooperate with federal
25 immigration enforcement efforts (the “FTA Enforcement Condition”).
26

27 547. In particular, the FTA Enforcement Condition amends an existing provision
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1 addressing free speech and religious liberty as follows (new language emphasized):

2 The Recipient shall ensure that Federal funding is expended in full
3 accordance with the U.S. Constitution, Federal Law, and statutory
4 and public policy requirements: including, but not limited to, those
5 protecting free speech, religious liberty, public welfare, the
6 environment, and prohibiting discrimination; *and the Recipient will*
7 *cooperate with Federal officials in the enforcement of Federal law,*
8 *including cooperating with and not impeding U.S. Immigration and*
9 *Customs Enforcement (ICE) and other Federal offices and*
10 *components of the Department of Homeland Security in the*
11 *enforcement of Federal immigration law.*

12 548. The Duffy Letter to all recipients of DOT grants (including the FTA grants) states
13 that “DOT expects its recipients to comply with Federal law enforcement directives and to
14 cooperate with Federal officials in the enforcement of Federal immigration law” and that
15 “[d]eclining to cooperate with the enforcement of Federal immigration law or otherwise taking
16 action intended to shield illegal aliens from ICE detection contravenes Federal law and may give
17 rise to civil and criminal liability.”

18 549. In May 2025, following this Court’s issuance of a temporary restraining order
19 enjoining the FTA from enforcing the FTA Discrimination Condition, the FTA EO Condition, or
20 the FTA Enforcement Condition against King County, King County learned that the FTA had
21 retroactively applied the April 2025 FTA Master Agreement to grants that were executed pursuant
22 to earlier versions of the agreement. By substituting those earlier agreements with the FTA Master
23 Agreement, the FTA purported to unilaterally add new substantive conditions to previously
24 awarded grants without notifying King County.

25 550. Neither the statutory provisions creating the FTA grants, the relevant
26 appropriations acts, nor any other legislation authorizes the FTA to condition these funds on the
27 recipient’s certification that it does not “promote DEI,” its admission that its compliance with this

1 prohibition is material for purposes of the FCA, or its agreement to “cooperate” with federal
 2 immigration enforcement efforts. Federal grant recipients must comply with nondiscrimination
 3 and other federal laws. But executive orders and letters from agency heads cannot change what
 4 these laws require under existing court decisions.

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 6 551. In sum and as further explained below, the FTA Discrimination Condition, the FTA
 7 EO Condition, and the FTA Enforcement Condition (collectively, the “FTA Grant Conditions”)
 8 violate the Separation of Powers, the Spending Clause, the Tenth Amendment’s anti-
 9 commandeering principle, the Fifth Amendment’s void-for-vagueness doctrine, and the APA.

10 ***b.) DOT and the FHWA attach new, unlawful conditions to FHWA***
 11 ***Grants***

12 552. On March 17, 2025, DOT issued revised General Terms and Conditions applicable
 13 to Fiscal Year 2024 SS4A grants (“FY 2024 SS4A General Terms and Conditions”).

14 553. The FY 2024 SS4A General Terms and Conditions imposed a new condition on all
 15 Fiscal Year 2024 SS4A grants implementing President Trump’s directive, as set out in the DEI
 16 Order, to condition federal grant funds on recipients’ agreement not to promote DEI and to concede
 17 this requirement is material for purposes of the FCA (“SS4A Discrimination Condition”). While
 18 SS4A grants have long required compliance with nondiscrimination laws and have been subject to
 19 the FCA, the FY 2024 SS4A General Terms and Conditions provided:

21 (b) Pursuant to Executive Order 14173, *Ending Illegal*
 22 *Discrimination and Restoring Merit-Based Opportunity*, the
 23 Recipient agrees that its compliance in all respects with all
 24 applicable Federal anti-discrimination laws is material to the
 25 government’s payment decisions for purposes of [the FCA].

26 (c) Pursuant to Executive Order 14173, *Ending Illegal*
 27 *Discrimination and Restoring Merit-Based Opportunity*, by entering
 into this agreement, the Recipient certifies that it does not operate
 any programs promoting diversity, equity, and inclusion (DEI)

1 initiatives that violate any applicable Federal anti-discrimination
2 law.

3 554. The SS4A Discrimination Condition is in apparent tension with other requirements
4 in the FY 2024 SS4A General Terms and Conditions. For example, the FY 2024 SS4A General
5 Terms and Conditions require compliance with 2 C.F.R. § 300.321, which states, “[w]hen possible,
6 the recipient or subrecipient should ensure that small businesses, minority businesses, women’s
7 business enterprises, veteran-owned businesses, and labor surplus area firms” are, *inter alia*,
8 “included on solicitation lists” and “solicited” when “deemed eligible.”

9 555. The SS4A Discrimination Condition is also in apparent tension with DOT’s own
10 regulations. For example, 49 C.F.R. 21.5, which prohibits discrimination, states, “[w]here prior
11 discriminatory practice or usage tends, on the grounds of race, color, or national origin to exclude
12 individuals from participation in, to deny them the benefits of, or to subject them to discrimination
13 under any program or activity . . . the applicant or recipient must take affirmative action to remove
14 or overcome the effects of the prior discriminatory practice or usage.” 49 C.F.R. 21.5(b)(7).

15 556. The FY 2024 SS4A General Terms and Conditions contain an additional condition
16 requiring recipients to cooperate with federal immigration enforcement efforts (the “SS4A
17 Enforcement Condition”).
18

19 557. In particular, the SS4A Enforcement Condition amends a pre-existing provision
20 addressing free speech and religious liberty as follows (new language emphasized):
21

22 The Recipient shall ensure that Federal funding is expended in full
23 accordance with the United States Constitution, Federal law, and
24 statutory and public policy requirements: including but not limited
25 to, those protecting free speech, religious liberty, public welfare, the
26 environment, and prohibiting discrimination; *and Recipient will*
cooperate with Federal officials in the enforcement of Federal law,
including cooperating with and not impeding U.S. Immigration and
Customs Enforcement (ICE) and other Federal offices and

1 *components of the Department of Homeland Security in the*
2 *enforcement of Federal immigration law.*

3 558. Exhibit A to the FY 2024 SS4A General Terms and Conditions also requires the
4 recipient to assure and certify that it will “comply with all applicable Federal laws, regulations,
5 executive orders, policies, guidelines, and requirements as they relate to the application,
6 acceptance, and use of Federal funds for this Project” (the “SS4A EO Condition”). While this
7 requirement existed in a similar form in prior agreements, Exhibit A to the FY 2024 SS4A General
8 Terms and Conditions lists President Trump’s DEI Order and Gender Ideology Order (among other
9 recent Trump Administration executive orders), as well as two criminal immigration statutes (8
10 U.S.C. § 1324 and 8 U.S.C. § 1327) as “provisions” purportedly “applicable” to SS4A grant
11 agreements, with no explanation of how those Orders or statutes relate to roadway grants or even
12 apply to local governments.
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14 559. Also on March 17, 2025, DOT issued revised General Terms and Conditions
15 applicable to Fiscal Year 2023 SS4A grants and to Fiscal Year 2022 SS4A grants. Those revised
16 General Terms and Conditions, and the revised Exhibit A to each, contain provisions identical to
17 the SS4A Discrimination Condition, the SS4A Immigration Condition, and the SS4A EO
18 Condition discussed above.
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20 560. On April 22, 2025, the FHWA issued Competitive Grant Program General Terms
21 and Conditions purportedly applicable to all FHWA competitive grants (“2025 FHWA General
22 Terms and Conditions”).

23 561. The 2025 FHWA General Terms and Conditions imposed a new condition on all
24 FHWA competitive grants (including the BIP, Culvert AOP Program, and ATTAIN program
25 discussed above) implementing President Trump’s directive, as set out in the DEI Order and
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1 further explained in the Duffy letter, to condition federal grant funds on recipients' agreement not
 2 to promote DEI and to concede this requirement is material for purposes of the FCA ("FHWA
 3 Discrimination Condition"). While FHWA grants have long required compliance with
 4 nondiscrimination laws and have been subject to the FCA, the 2025 FHWA General Terms and
 5 Conditions provide:

6
 7 (b) Pursuant to Section (3)(b)(iv)(A), Executive Order 14173,
 8 Ending Illegal Discrimination and Restoring Merit-Based
 9 Opportunity, the Recipient agrees that its compliance in all respects
 10 with all applicable Federal anti-discrimination laws is material to the
 11 government's payment decisions for purposes of [the FCA].

12 (c) Pursuant to Section (3)(b)(iv)(B), Executive Order 14173,
 13 Ending Illegal Discrimination and Restoring Merit-Based
 14 Opportunity, by entering into this agreement, the Recipient certifies
 15 that it does not operate any programs promoting diversity, equity,
 16 and inclusion (DEI) initiatives that violate any applicable Federal
 17 anti-discrimination laws.

18 562. The 2025 FHWA General Terms and Conditions contain an additional condition
 19 requiring recipients to cooperate with federal immigration enforcement efforts (the "FHWA
 20 Enforcement Condition").

21 563. In particular, the FHWA Enforcement Condition incorporates immigration
 22 enforcement into a provision addressing compliance with federal law and policy as follows
 23 (immigration enforcement language emphasized):

24 The Recipient shall ensure that Federal funding is expended in full
 25 accordance with the United States Constitution, Federal law, and
 26 statutory and public policy requirements: including but not limited
 27 to, those protecting free speech, religious liberty, public welfare, the
 environment, and prohibiting discrimination; *and the Recipient will
 cooperate with Federal officials in the enforcement of Federal law,
 including cooperating with and not impeding U.S. Immigration and
 Customs Enforcement (ICE) and other Federal offices and
 components of the Department of Homeland Security in the
 enforcement of Federal immigration law.*

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564. The Exhibits to the 2025 FHWA General Terms and Conditions—dated April 30, 2025 and applicable to FHWA competitive grants—further require the recipient to assure and certify that it will “comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Project” (the “FHWA EO Condition”). The Exhibits list President Trump’s DEI Order and Gender Ideology Order (among other recent Trump Administration executive orders), as well as two criminal immigration statutes (8 U.S.C. § 1324 and 8 U.S.C. § 1327), as “provisions” purportedly “applicable” to FHWA competitive grant agreements, with no explanation of how those Orders or statutes relate to highway grants or even apply to local governments.

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565. Plaintiffs re-allege and incorporate paragraphs 544 and 548 above (describing the Duffy Letter) as if set forth fully herein. The Duffy Letter was directed to all recipients of DOT grants (including the FHWA grants).

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566. Neither the statutory provisions creating the FHWA grants, the relevant appropriations acts, nor any other legislation authorizes the FHWA or DOT to condition these funds on the recipient’s certification that it does not “promote DEI,” its admission that its compliance with this prohibition is material for purposes of the FCA, or its agreement to “cooperate” with federal immigration enforcement efforts. Federal grant recipients must comply with nondiscrimination and other federal laws. But executive orders and letters from agency heads cannot change what these laws require under existing court decisions.

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567. In sum and as further explained below, the SS4A Discrimination Condition, the SS4A Enforcement Condition, the SS4A EO Condition, the FHWA Discrimination Condition, the FHWA Enforcement Condition, and the FHWA EO Condition (collectively, the “FHWA Grant

Conditions”) violate the Separation of Powers, the Spending Clause, the Tenth Amendment’s anti-commandeering principle, the Fifth Amendment’s void-for-vagueness doctrine, and the APA.

c.) DOT and the FAA attach new, unlawful conditions to FAA Grants

568. Implementing the Duffy Letter and the Trump Administration Executive Orders, on April 25, 2025, the FAA issued a proposal labeled “Notice of modification of Airport Improvement Program grant assurances; opportunity to comment,” providing notice and soliciting public comments on modifications to the Grant Assurances (“2025 FAA Grant Assurances”). In its notice, the FAA stated that the 2025 FAA Grant Assurances would become effective immediately notwithstanding the opportunity to comment.

569. The 2025 FAA Grant Assurances require the sponsor to assure and certify that it will “comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant.” While this requirement existed in a similar form in prior versions of the Grant Assurances, the 2025 FAA Grant Assurances list President Trump’s DEI Order and Gender Ideology Order (among other recent Trump Administration executive orders), and incorporates all other executive orders, including the Immigration Order, as “provisions” purportedly “applicable” to grant agreements, even though these Orders on their face do not apply to non-federal entities and do not relate to funding of airport development or infrastructure. Congress has not directed or authorized that the DEI Order, Gender Ideology Order, or Immigration Order be imposed as Grant Assurances.

570. Implementing the Duffy Letter and the Trump administration Executive Orders, on May 6, 2025, FAA posted on its website a revised grant agreement template for 2025 for AIG

1 grants with added terms and conditions that did not appear in prior iterations of FAA grant
 2 agreements (“FY 2025 FAA AIG Grant Template”). The FY 2025 FAA AIG Grant Template has
 3 not been circulated for comment, as is statutorily required for changes to Grant Assurances.

4 571. The FY 2025 FAA AIG Grant Template imposes a new condition on all AIG grants
 5 that implements President Trump’s directive, as set out in the DEI Order, to condition federal grant
 6 funds on recipients’ agreement not to promote DEI and to concede that this requirement is material
 7 for purposes of the FCA (the “FAA Discrimination Condition”). While FAA grants have long
 8 required compliance with nondiscrimination laws and have been subject to the FCA, the FY 2025
 9 FAA AIG Grant Template provides:
 10

11 Pursuant to Section (3)(b)(iv), Executive Order 14173, *Ending*
 12 *Illegal Discrimination and Restoring Merit-Based Opportunity*, the
 13 sponsor:

14 a. Agrees that its compliance in all respects with all applicable
 15 Federal anti-discrimination laws is material to the government’s
 16 payment decisions for purposes of [the FCA]; and

17 b. certifies that it does not operate any programs promoting
 18 diversity, equity, and inclusion (DEI) initiatives that violate any
 19 applicable Federal anti-discrimination laws.

20 572. The FAA Discrimination Condition is in apparent tension with statutorily required
 21 Grant Assurances imposed on sponsors with respect to FAA grant funds. For example, one of the
 22 statutorily required Grant Assurances sponsors must make for airport development grants is that
 23 the airport sponsor will take necessary action to ensure, to the maximum extent possible, that at
 24 least 10 percent of all businesses at the airport selling consumer products or providing consumer
 25 services to the public are small business concerns owned and controlled by “a socially and
 26 economically disadvantaged individual” or other small business concerns in historically
 27 underutilized business zones. 49 U.S.C. § 47107(e)(1). “Socially and economically disadvantaged

1 individual” is defined to include “Black Americans, Hispanic Americans, Native Americans,
2 Asian Pacific Americans, and other minorities,” as well as women. 49 U.S.C. § 47113(a)(2); 15
3 U.S.C. § 637(d).

4 573. The FAA Discrimination Condition is also in apparent tension with DOT’s own
5 regulations. For example, 49 C.F.R. 21.5, which prohibits discrimination, states, “[w]here prior
6 discriminatory practice or usage tends, on the grounds of race, color, or national origin to exclude
7 individuals from participation in, to deny them the benefits of, or to subject them to discrimination
8 under any program or activity . . . the applicant or recipient must take affirmative action to remove
9 or overcome the effects of the prior discriminatory practice or usage.” 49 C.F.R. 21.5(b)(7). And
10 the FAA Discrimination Condition is in tension with other provisions of the FY 2025 FAA AIG
11 Grant Template. For example, the FY 2025 FAA AIG Grant Template states that the “sponsor’s
12 [Disadvantaged Business Enterprise] and [Airport Concession Disadvantaged Business
13 Enterprise] programs as required by 49 C.F.R. Parts 26 and 23, and as approved by DOT, are
14 incorporated by reference in this agreement.” But 49 C.F.R. 23.25(e), for instance, requires the use
15 of “race-conscious measures” in implementing the Airport Concession Disadvantaged Business
16 Enterprise program when race-neutral measures, standing alone, are not projected to be sufficient
17 to meet an overall goal, and sets forth examples of race-conscious measures airports can
18 implement.
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22 574. The FY 2025 FAA AIG Grant Template contains an additional condition requiring
23 sponsors to cooperate with enforcement of any federal law, including federal immigration
24 enforcement efforts (the “FAA Enforcement Condition”).

25 575. In particular, the FAA Enforcement Condition incorporates immigration
26 enforcement into a provision addressing free speech and religious liberty as follows (immigration
27

enforcement language emphasized):

The Sponsor shall ensure that Federal funding is expended in full accordance with the United States Constitution, Federal law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; *and the Sponsor will cooperate with Federal officials in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in and the enforcement of Federal immigration law.*

576. The FY 2025 FAA AIG Grant Template further states with respect to immigration: “Title 8 - U.S.C., Chapter 12, Subchapter II - Immigration. The sponsor will follow applicable federal laws pertaining to Subchapter 12, and be subject to the penalties set forth in 8 U.S.C. § 1324, Bringing in and harboring certain aliens, and 8 U.S.C. § 1327, Aiding or assisting certain aliens to enter.” The FY 2025 FAA AIG Grant Template does not explain how those criminal immigration statutes relate to airport grants or even apply to local governments.

577. The FY 2025 FAA AIG Grant Template also requires the sponsor to assure and certify that it will “comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant” (the “FAA EO Condition”). While this requirement existed in a similar form in prior agreements, the FY 2025 FAA AIG Grant Template lists President Trump’s DEI Order and Gender Ideology Order (among other recent Trump Administration executive orders), and incorporates all other executive orders, including the Immigration Order, as “provisions” purportedly “applicable” to grant agreements, with no explanation of how those Orders relate to funding of airport development or infrastructure.

578. The FY 2025 FAA AIG Grant Template also states that the “FAA may terminate

1 this agreement and all of its obligations under this agreement” in certain circumstances, including
2 if “FAA determines that termination of this agreement is in the public interest”; and further states
3 that “[i]n terminating this agreement under this section, the FAA may elect to consider only the
4 interests of the FAA” (the “FAA Termination Condition”). The FY 2025 FAA AIG Grant
5 Template does not define “the public interest” or “the interests of the FAA” that would support a
6 termination decision or expressly limit those interests to the funding of airport development or
7 infrastructure.
8

9 579. AIP and AIG grant agreements require sponsors to certify a number of sponsor
10 assurances (i.e., the Grant Assurances described above) that require sponsors to maintain and
11 operate their facilities safely and efficiently and in accordance with specified conditions and
12 include compliance with numerous statutes, agency rules, and executive orders.
13

14 580. Plaintiffs re-allege and incorporate paragraphs 544 and 548 above (describing the
15 Duffy Letter) as if set forth fully herein. The Duffy Letter was directed to all recipients of DOT
16 grants (including the FAA grants).
17

18 581. Neither the statutory provisions authorizing the FAA grants, the relevant
19 appropriations acts, nor any other legislation authorizes the FAA or DOT to condition the granting
20 of these funds on the recipient’s certification that it does not “promote DEI,” its admission that its
21 compliance with this prohibition is material for purposes of the FCA, or its agreement to
22 “cooperate” with federal immigration enforcement efforts. Federal grant recipients must comply
23 with nondiscrimination and other federal laws. But executive orders and letters from agency heads
24 cannot change what these laws require under existing court decisions.
25

26 582. In sum and as further explained below, the FAA Discrimination Condition, the
27 FAA Enforcement Condition, the FAA EO Condition, the FAA Termination Condition
SECOND AMENDED COMPLAINT FOR
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(collectively, the “FAA Grant Conditions”), including in the 2025 Grant Assurances, FAA AIG Grant Template, and any other agreement, template, assurances, or other terms and conditions, violate the Separation of Powers, the Spending Clause, the Tenth Amendment’s anti-commandeering principle, and the Fifth Amendment’s void-for-vagueness doctrine.

d.) DOT and the FRA attach new, unlawful conditions to FRA Grants

583. Implementing the Duffy Letter and the Trump administration Executive Orders, on April 16, 2025, DOT and FRA issued revised General Terms and Conditions applicable to FRA discretionary grants, including the RCE Grant Program (“2025 FRA General Terms and Conditions”).⁴

584. The 2025 FRA General Terms and Conditions imposed a new condition on all Fiscal Year 2024 FRA discretionary grants implementing President Trump’s directive, as set out in the DEI Order, to condition federal grant funds on recipients’ agreement not to promote DEI and to concede this requirement is material for purposes of the FCA (“FRA Discrimination Condition”). While FRA grants have long required compliance with nondiscrimination laws and have been subject to the FCA, the 2025 FRA General Terms and Conditions provided:

(b) Pursuant to Section 3(b)(iv)(A) of Executive Order 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, the Recipient agrees that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government’s payment decisions for purposes of [the FCA].

(c) Pursuant to Section 3(b)(iv)(B) of Executive Order 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, by entering into this agreement, the Recipient certifies that it does not operate any programs promoting diversity, equity, and inclusion (DEI) initiatives that violate any applicable Federal anti-discrimination laws.

⁴ The FRA’s website indicates that the 2025 FRA General Terms and Conditions were further revised on April 23, 2025, but the revision is not accessible. See <https://railroads.dot.gov/grants-loans/fra-discretionary-grant-agreements> (last accessed May 19, 2025).

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585. The FRA Discrimination Condition is in apparent tension with the goals of the RCE program as set forth by Congress. For example, one goal of the RCE program is “to reduce the impacts that freight movement and railroad operations may have on underserved communities.” 49 U.S.C. § 22909(b)(3).

586. The FRA Discrimination Condition is also in apparent tension with DOT’s own regulations. For example, 49 C.F.R. 21.5, which prohibits discrimination, states, “[w]here prior discriminatory practice or usage tends, on the grounds of race, color, or national origin to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity . . . the applicant or recipient must take affirmative action to remove or overcome the effects of the prior discriminatory practice or usage.” 49 C.F.R. 21.5(b)(7).

587. The FRA Discrimination Condition is also in tension with the RCE NOFO, issued July 10, 2024, which identifies “Equity and Justice” as a priority against which proposed projects would be assessed as part of the selection process.

588. The 2025 FRA General Terms and Conditions contain an additional condition requiring recipients to cooperate with federal immigration enforcement efforts (the “FRA Enforcement Condition”).

589. In particular, the FRA Enforcement Condition amends a pre-existing provision addressing free speech and religious liberty as follows (new language emphasized):

The Recipient will ensure that Federal funding is expended in full accordance with the United States Constitution, Federal law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination *and the Recipient will cooperate with Federal officials in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in the enforcement of Federal immigration law.*

1
2 590. The 2025 FRA General Terms and Conditions incorporate exhibits, which were
3 revised on April 16, 2025 and again on April 30, 2025. Exhibit A requires grantees to certify that
4 they will “comply with all applicable Federal laws, regulations, executive orders, policies,
5 guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds
6 for this Project” (the “FRA EO Condition”). While this requirement existed in a similar form in
7 prior versions of the Exhibit, the revised Exhibit (as of April 30, 2025) lists President Trump’s
8 DEI Order and Gender Ideology Order (among other recent Trump administration executive
9 orders), as well as two criminal immigration statutes (8 U.S.C. § 1324 and 8 U.S.C. § 1327) as
10 “provisions” purportedly “applicable” to grant agreements, with no explanation of how those
11 Orders and statutes relate to funding of railway improvements or even apply to local governments.

13 591. Plaintiffs re-allege and incorporate paragraphs 544 and 548 above (describing the
14 Duffy Letter) as if set forth fully herein. The Duffy Letter was directed to all recipients of DOT
15 grants (including the FRA grants).

16 592. Neither the statutory provisions authorizing the FRA grants, the relevant
17 appropriations acts, nor any other legislation authorizes the FRA or DOT to condition these funds
18 on the recipient’s certification that it does not “promote DEI,” its admission that its compliance
19 with this prohibition is material for purposes of the FCA, or its agreement to “cooperate”
20 with federal immigration enforcement efforts. Federal grant recipients must comply with
21 nondiscrimination and other federal laws. But executive orders and letters from agency heads
22 cannot change what these laws require under existing court decisions.

23 593. In sum and as further explained below, the FRA Discrimination Condition, the FRA
24 Enforcement Condition, and the FRA EO Condition (collectively, the “FRA Grant Conditions”)
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26

1 violate the Separation of Powers, the Spending Clause, Tenth Amendment’s anti-commandeering
 2 principle, the Fifth Amendment’s void-for-vagueness doctrine, and the APA.

3 *e.) DOT attaches new, unlawful conditions to SMART Grants*

4 594. Implementing the Duffy Letter and the Trump administration Executive Orders, on
 5 May 9, 2025, DOT issued revised General Terms and Conditions applicable to DOT SMART
 6 Grants (“2025 DOT SMART General Terms and Conditions”). The 2025 DOT SMART General
 7 Terms and Conditions are incorporated into the grant agreement for FY 2024 SMART Grants.
 8

9 595. The 2025 DOT SMART General Terms and Conditions imposed a new condition
 10 on all FY 2024 SMART grants implementing President Trump’s directive, as set out in the DEI
 11 Order, to condition federal grant funds on recipients’ agreement not to promote DEI and to concede
 12 this requirement is material for purposes of the FCA (“DOT SMART Discrimination Condition”).
 13 While DOT grants have long required compliance with nondiscrimination laws and have been
 14 subject to the FCA, the 2025 DOT SMART General Terms and Conditions provided:
 15

16 (b) Pursuant to Executive Order 14173, *Ending Illegal*
 17 *Discrimination and Restoring Merit-Based Opportunity*, the
 18 Recipient agrees that its compliance in all respects with all
 applicable Federal anti-discrimination laws is material to the
 government’s payment decisions for purposes of [the FCA].

19 (c) Pursuant to Executive Order 14173, *Ending Illegal*
 20 *Discrimination and Restoring Merit-Based Opportunity*, by entering
 21 into this agreement, the Recipient certifies that it does not operate
 any programs promoting diversity, equity, and inclusion (DEI)
 22 initiatives that violate any applicable Federal anti-discrimination
 laws.

23 596. The DOT SMART Discrimination Condition is in apparent tension with the goals
 24 of the SMART Grant program as set forth by Congress, which required that the DOT Secretary
 25 “shall give priority to” projects that would, among other things “promote a skilled workforce that
 26 is inclusive of minority or disadvantaged groups.” 135 Stat. at 842.

27 SECOND AMENDED COMPLAINT FOR
 DECLARATORY JUDGMENT AND
 INJUNCTIVE RELIEF - 147

1 597. The DOT SMART Discrimination Condition is also in apparent tension with
2 DOT's own regulations. For example, 49 C.F.R. 21.5, which prohibits discrimination, states,
3 "[w]here prior discriminatory practice or usage tends, on the grounds of race, color, or national
4 origin to exclude individuals from participation in, to deny them the benefits of, or to subject them
5 to discrimination under any program or activity . . . the applicant or recipient must take affirmative
6 action to remove or overcome the effects of the prior discriminatory practice or usage." 49 C.F.R.
7 21.5(b)(7).
8

9 598. The 2025 DOT SMART General Terms and Conditions contain an additional
10 condition requiring recipients to cooperate with federal immigration enforcement efforts (the
11 "DOT SMART Enforcement Condition").
12

13 599. In particular, the DOT SMART Enforcement Condition provides:

14 [T]he recipient will cooperate with Federal officials in the
15 enforcement of Federal law, including cooperating with and not
16 impeding U.S. Immigration and Customs Enforcement (ICE) and
other Federal offices and components of the Department of
Homeland Security in the enforcement of Federal immigration law.

17 600. The 2025 SMART General Terms and Conditions incorporate exhibits, which were
18 revised on May 9, 2025. Exhibit A requires grantees to certify that they will "comply with all
19 applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as
20 they relate to the application, acceptance, and use of Federal funds for this Project" ("DOT
21 SMART EO Condition"). While this requirement existed in a similar form in prior versions of the
22 Exhibit, the revised Exhibit lists President Trump's DEI Order and Gender Ideology Order (among
23 other recent Trump administration executive orders), as well as two criminal immigration statutes
24 (8 U.S.C. § 1324 and 8 U.S.C. § 1327) as "provisions" purportedly "applicable" to grant
25 agreements, with no explanation of how those Orders or statutes relate to funding of advanced
26

27 SECOND AMENDED COMPLAINT FOR
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1 smart community technologies and systems.

2 601. Plaintiffs re-allege and incorporate paragraphs 544 and 548 above (describing the
3 Duffy Letter) as if set forth fully herein. The Duffy Letter was directed to all recipients of DOT
4 grants (including the DOT SMART Grants).

5 602. Neither the statutory provisions creating the DOT SMART Grants, the relevant
6 appropriations acts, nor any other legislation authorizes DOT to condition these funds on the
7 recipient's certification that it does not "promote DEI," its admission that its compliance with this
8 prohibition is material for purposes of the FCA, or its agreement to "cooperate"
9 with federal immigration enforcement efforts. Federal grant recipients must comply with
10 nondiscrimination and other federal laws. But executive orders and letters from agency heads
11 cannot change what these laws require under existing court decisions.
12

13 603. In sum and as further explained below, the DOT SMART Discrimination
14 Condition, the DOT SMART Enforcement Condition, and the DOT SMART EO Condition
15 (collectively, the "DOT SMART Grant Conditions") violate the Separation of Powers, the
16 Spending Clause, Tenth Amendment's anti-commandeering principle, the Fifth Amendment's
17 void-for-vagueness doctrine, and the APA.
18

19 **4. HHS and its Operating Divisions and Agencies Attach New, Unlawful**
20 **Conditions to HHS Grants**

21 604. HHS and its operating divisions and agencies have implemented President Trump's
22 Executive Orders by making changes to HHS policy and attaching new and unlawful conditions
23 (collectively, the "HHS Grant Conditions") across the expansive portfolio of HHS grants
24 established by Congress and demanding grant recipients' agreement to those new conditions.
25

26 605. For example, on April 16, 2025, HHS issued an updated HHS Grants Policy

Statement (2025 HHS GPS) applicable to discretionary grants that is “incorporated by reference in the official Notice of Award (NoA) as a standard term and condition.” It applies to “awards and award modifications that add funding made on or after April 16, 2025,” includes “supplements to award, competing and non-competing continuations,” and applies to “all HHS recipients and the requirements flow down to subrecipients.” The 2025 HHS GPS “is incorporated by reference as a standard term and condition of awards.” The 2025 HHS GPS states that it does not apply to non-discretionary awards, but that “HHS agencies have the discretion to apply certain parts of the GPS to non-discretionary awards and other policies to” non-discretionary awards.⁵

606. The 2025 HHS GPS imposed a new condition on HHS grants implementing President Trump’s directive, as set out in the DEI Order, to condition federal grant funds on recipients’ agreement not to promote DEI and to concede this requirement is material for purposes of the FCA (“HHS Discrimination Condition”). While HHS grants have long required compliance with nondiscrimination laws and have been subject to the FCA, the 2025 HHS GPS states that in addition to filing Form HHS 690 (Assurance of Compliance with federal nondiscrimination laws, which was previously required under older versions of the GPS), “recipients must comply with all applicable Federal anti-discrimination laws material to the government’s payment decisions for purposes of 31 U.S.C. § 372(b)(4).” Further, the 2025 HHS GPS states that “By accepting the grant award, recipients are certifying that . . . [t]hey do not, and will not during the term of this financial assistance award, operate any programs that advance or promote DEI, DEIA, or discriminatory equity ideology in violation of Federal anti-discrimination laws” For this purpose, the following definitions apply:

(a) DEI means “diversity, equity, and inclusion.”

⁵ The 2025 HHS GPS does not apply to NIH grant awards.

(b) DEIA means “diversity, equity, inclusion, and accessibility.”

(c) Discriminatory equity ideology has the meaning set forth in Section 2(b) of Executive Order 14190 of January 29, 2025.

....

(e) Federal anti-discrimination laws means Federal civil rights law that protect individual Americans from discrimination on the basis of race, color, sex, religion, and national origin.

607. In addition to these agency-wide conditions, several HHS operating divisions and agencies have issued their own requirements. For example, CDC recently issued updated general terms and conditions for both research and non-research awards. Those updated general terms and conditions incorporate the 2025 HHS GPS as applicable grants policy with which recipients must comply.

608. SAMHSA recently issued updated general terms and conditions for discretionary grants. Those updated general terms and conditions incorporate the 2025 HHS GPS as applicable grants policy with which recipients must comply. Moreover, in April 2025, SAMHSA updated its Notice of Funding Opportunity (NOFO) Application Guide to state that “[a]ll activities proposed in your application and budget narrative must be in alignment with the current Executive Orders” (the “SAMHSA EO Condition”) and that “[f]unds cannot be used to support or provide services, either directly or indirectly, to removable or illegal aliens” (the “SAMHSA Immigration Condition”).

609. ACF recently issued updated general terms and conditions applicable to grants administered by ACF that expressly state that they apply to non-discretionary awards. ACF’s updated general terms and conditions contain a provision materially the same as the HHS Discrimination Condition described above:

For new awards made on or after May 8, 2025, the following is effective immediately:

1 Recipients must comply with all applicable Federal anti-
2 discrimination laws material to the government's payment
3 decisions for purposes of [the FCA].

4 (1) Definitions. As used in this clause –

5 (a) DEI means “diversity, equity, and inclusion.”

6 (b) DEIA means “diversity, equity, inclusion, and
7 accessibility.”

8 (c) Discriminatory equity ideology has the meaning
9 set forth in Section 2(b) of Executive Order 14190 of
10 January 29, 2025.

11 (e) Federal anti-discrimination laws means Federal
12 civil rights law that protect individual Americans
13 from discrimination on the basis of race, color, sex,
14 religion, and national origin.

15 (2) Grant award certification.

16 (a) By accepting the grant award, recipients are
17 certifying that:

18 (i) They do not, and will not during the term of this
19 financial assistance award, operate any programs that
20 advance or promote the following in violation of
21 Federal anti-discrimination laws: DEI, DEIA, or
22 discriminatory equity ideology.

23 610. ACF may impose unspecified additional conditions via “post-award action,”
24 “supplemental” terms and conditions, and “remarks and/or specific award conditions.”

25 611. On May 14, 2025, HRSA issued updated general terms and conditions applicable
26 to “all active awards.” The revised HRSA terms and conditions incorporate the 2025 HHS GPS as
27 applicable grants policy with which recipients must comply. They also contain the following
provision (the “HRSA Gender Ideology Condition”):

By accepting this award, including the obligation, expenditure, or
drawdown of award funds, recipients, whose programs, are covered

by Title IX certify as follows:

- Recipient is compliant with Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq., including the requirements set forth in [the Gender Ideology Order], and Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq., and Recipient will remain compliant for the duration of the Agreement.
- The above requirements are conditions of payment that go to the essence of the Agreement and are therefore material terms of the Agreement.
- Payments under the Agreement are predicated on compliance with the above requirements, and therefore Recipient is not eligible for funding under the Agreement or to retain any funding under the Agreement absent compliance with the above requirements.
- Recipient acknowledges that this certification reflects a change in the government's position regarding the materiality of the foregoing requirements and therefore any prior payment of similar claims does not reflect the materiality of the foregoing requirements to this Agreement.
- Recipient acknowledges that a knowing false statement relating to Recipient's compliance with the above requirements and/or eligibility for the Agreement may subject Recipient to liability under the False Claims Act, 31 U.S.C. § 3729, and/or criminal liability, including under 18 U.S.C. §§ 287 and 1001.

It is not clear if HRSA's assertion that compliance with Title IX (or any other nondiscrimination law) purportedly now requires agreement to the Gender Ideology Order is shared by other HHS operating divisions and agencies, or is implicitly imported into other operating divisions and agencies' conditions requiring compliance with nondiscrimination laws that do not expressly contain this added gloss.

612. Meanwhile, on May 6, 2025, HHS sent a "Dear Colleague" letter to medical schools receiving federal funds, providing "[HHS's] current interpretation of federal law." Regarding DEI, the letter stated "some American educational institutions . . . have adopted race-conscious policies under a broader umbrella of concepts known as 'systemic and structural racism' and 'diversity,

equity, and inclusion’ (DEI) to incorporate race-based criteria into training and discipline,” and “[a]dditionally, certain DEI programs may confer advantages or impose burdens based on generalizations associated with racial identity, rather than evaluating individuals on their own merits. Such programs can create a hostile environment, denying a student the ability to participate fully in school life because of the student’s race.” The letter also warned that institutions “found to be out of compliance with federal civil rights law may, consistent with applicable law, be subject to investigation and measures to secure compliance with may, if unsuccessful, affect continued eligibility for federal funding” and stated HHS would “prioritize investigations” of institutions that, among other things, require DEI or diversity statements in connection with hiring. Letter from Anthony F. Archeval, Acting Director, HHS Office for Civil Rights, to medical schools that receive federal financial assistance (May 6, 2025), <https://www.hhs.gov/sites/default/files/guidance-med-schools-dear-colleague-letter.pdf>.

613. In a May 14, 2025 statement to the Senate Committee on Health, Education, Labor, and Pensions regarding President Trump’s FY 2026 budget, HHS Secretary Kennedy stated, among other things, that HHS is “committed to restoring a tradition of gold-standard, evidence-based science—not one driven by politicized DEI, gender ideology, nor sexual identity.” Secretary Kennedy also stated that “NIH will no longer issue grants to promote radical gender ideology to the detriment of America’s youth, or fund dangerous gain-of-function research, though related research will continue consistent with Administration policy and oversight. Our Administration is committed to eliminating radical gender ideologies that poison the minds of Americans.” Statement by Robert F. Kennedy, Jr. on the President’s Fiscal Year 2026 Budget before Committee on Health, Education, Labor, and Pensions (May 14, 2025), <https://www.help.senate.gov/imo/media/doc/b1b74b8b-0612-8b5d-1904->

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1 a50babcldeea/HELP%20Secretary%20Kennedy%20Testimony.pdf.

2 614. On July 3, 2025, ACF Acting Assistant Secretary Andrew Gradison issued a letter
3 to Children's Bureau grant recipients suggesting that all DEI initiatives may violate federal
4 nondiscrimination law. The letter states: "The Secretary of HHS has determined that awards
5 supporting diversity, equity, and inclusion (DEI) do not meet a public purpose to the extent they
6 are inconsistent with the Department's policy of improving the health and well-being of all
7 Americans and may violate Federal civil rights law." The letter "encourages" grant recipients to
8 "review all plans, services, strategies, and expenditures under these programs, including those
9 made by subrecipients or contractors, to ensure that they do not support DEI initiatives or any other
10 initiatives that discriminate on the basis of race, color, religion, sex, national origin, or another
11 protected characteristic." On or about the same date, OFA issued a similar letter to TANF grant
12 recipients.
13 recipients.

14 615. Neither the statutory provisions creating the HHS grants described in this
15 Complaint, the relevant appropriations acts, nor any other legislation authorizes HHS, itself or
16 through its operating divisions and agencies, to condition these funds on the recipient's
17 certification that it does not "promote" DEI or gender ideology or its admission that its compliance
18 with these prohibitions is material for purposes of the FCA. Nor are Plaintiffs aware of any statute
19 authorizing HHS, itself or through its operating divisions and agencies, to impose such conditions
20 on any other HHS grants that Plaintiffs have previously received, currently receive, or are
21 otherwise eligible to receive. Federal grant recipients must comply with nondiscrimination and
22 other federal laws. But executive orders and statements from agency heads cannot change what
23 these laws require under existing court decisions.
24

25 616. In sum and as further explained below, the HHS Grant Conditions violate the
26
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1 Separation of Powers, the Spending Clause, the Tenth Amendment’s anti-commandeering
 2 principle, the Fifth Amendment’s void-for-vagueness doctrine, and the APA.

3 **E. Plaintiffs with Pass-Through Grants Have a Reasonable Concern that the**
 4 **Challenged Conditions Apply to Them**

5 617. Local government entities that receive federal grant funds may receive the funds
 6 directly from a federal agency (as a direct recipient) or indirectly from a pass-through entity (as a
 7 subrecipient). Where a pass-through entity (for example, a state) provides federal funds to a
 8 subrecipient (for example, a city or county within the state), the pass-through entity is responsible
 9 for ensuring the subrecipient complies with applicable federal requirements. *See* 2 C.F.R. §§
 10 200.332(b)(2) (pass-through entity must provide to the subrecipient information regarding “[a]ll
 11 requirements of the subaward, including requirements imposed by Federal statutes, regulations,
 12 and the terms and conditions of the Federal award”), 200.332(e) (pass-through entity must
 13 “[m]onitor the activities of a subrecipient as necessary to ensure that the subrecipient complies
 14 with Federal statutes, regulations, and the terms and conditions of the subaward”); 2 C.F.R. Part
 15 2400 (incorporating 2 C.F.R. Part 200 requirements with respect to federal awards made by HUD
 16 to non-federal entities); 2 C.F.R. Part 1201 (same for DOT).

17
 18
 19 618. Consistent with 2 CFR § 200.332, the grant agreements and terms and conditions
 20 at issue in this case incorporate applicable federal requirements against any subrecipients.

21 619. For example, the CoC Grant Agreements provide that the “Recipient must comply
 22 with the applicable requirements in 2 CFR part 200, as may be amended from time to time.”

23 620. The FY 2024 SS4A General Terms and Conditions require that the recipient
 24 “monitor activities under this award, including activities under subawards and contracts, to
 25 ensure . . . that those activities comply with this agreement,” and state that “[i]f the Recipient
 26

1 makes a subaward under this award, the Recipient shall monitor the activities of the subrecipient
 2 in compliance with 2 C.F.R. 200.332(e).” Exhibit A to the 2024 SS4A General Terms and
 3 Conditions—which incorporates the DEI and Gender Ideology Orders and two criminal
 4 immigration statutes as “applicable provisions” as discussed above—states that “[p]erformance
 5 under this agreement shall be governed by and in compliance with the following requirements, as
 6 applicable, to the type of organization of the Recipient and any applicable sub-recipients.” The
 7 2025 FHWA General Terms and Conditions, the 2025 FRA General Terms and Conditions, and
 8 the 2025 DOT SMART General Terms and Conditions, and the Exhibits thereto, as well as the
 9 2025 FAA Grant Assurances and FY 2025 FAA AIG Grant Template, contain similar language.
 10 And the FTA Master Agreement requires that grant recipients take measures to assure that “Third
 11 Party Participants” (defined to include subrecipients) “comply with applicable federal laws,
 12 regulations, and requirements, and follow applicable federal guidance, except as FTA determines
 13 otherwise in writing.”
 14

15
 16 621. Similarly, the 2025 HHS GPS states that it “applies to subrecipients and
 17 contractors.” Specifically, “[t]he terms and conditions of [HHS] awards flow down to subawards
 18 and subrecipients unless a particular GPS policy or award term and condition specifically says
 19 otherwise.” ACF’s updated general terms and conditions state that “[u]nless indicated
 20 otherwise . . . the T&Cs of Federal awards flow down to subrecipients and to contractors (when
 21 applicable) as described in 45 CFR §§75.351 – 75.353 (effective 10/1/2024: 2 CFR §200.333;
 22 effective 10/1/2025: 2 CFR §200.331 – 200.332).” And HRSA’s updated general terms and
 23 conditions require that recipients “ensure the applicable general terms and conditions stated in this
 24 document flow down to subrecipients.” HRSA’s updated general terms and conditions link to
 25 HHS’s Administrative and National Policy Requirements, which in turn lists examples of laws and
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1 policies applicable to subrecipients, including nondiscrimination laws.

2 622. Plaintiffs who receive grant funds from Defendants via pass-through grants (i.e., as
3 subrecipients) have a reasonable concern, based on the agency statements and guidance, applicable
4 regulations, and grant agreement language discussed above, that the challenged HUD, DOT, and
5 HHS Grant Conditions apply to their use of the pass-through funds.
6

7 **F. Plaintiffs Face an Impossible Choice of Accepting Illegal Conditions, or**
8 **Forgoing Federal Grant Funding for Critical Programs and Services**

9 623. The grant conditions that Defendants seek to impose leave Plaintiffs with the
10 Hobson's choice of accepting illegal conditions that are without authority, contrary to the
11 Constitution, and accompanied by the poison pill of heightened risk of FCA claims, or forgoing
12 the benefit of grant funds—paid for (at least partially) through local federal taxes—that are
13 necessary for crucial local services. The uncertainty caused by these illegal conditions has impeded
14 Plaintiffs' ability to budget and plan for services covered by the grants.

15 624. Nor is the heightened FCA risk merely hypothetical. A May 19, 2025 letter from
16 Deputy Attorney General Todd Blanche to certain DOJ divisions and offices and all U.S. Attorneys
17 states that DOJ is setting up a "Civil Rights Fraud Initiative"—co-led by DOJ's Civil Fraud Section
18 and Civil Rights Division—that will "utilize the [FCA] to investigate and, as appropriate, pursue
19 claims against any recipient of federal funds that knowingly violates civil rights laws." The letter
20 asserts the FCA "is implicated whenever federal-funding recipients or contractors certify
21 compliance with civil rights laws while knowingly engaging in racist preferences, mandates,
22 policies, programs, and activities, including through diversity, equity, and inclusion (DEI)
23 programs that assign benefits or burdens on race, ethnicity, or national origin." It further states that
24 the Civil Fraud Section and Civil Rights Division will "engage with the Criminal Division, as well
25
26

1 as with other federal agencies that enforce civil rights requirements for federal funding recipients”
2 (including HUD) and “will also establish partnerships with state attorneys general and local law
3 enforcement to share information and coordinate enforcement actions.” Finally, the letter states
4 that DOJ “strongly encourages” private lawsuits under the FCA and “encourages anyone with
5 knowledge of discrimination by federal-funding recipients to report that information to the
6 appropriate federal authorities so that [DOJ] may consider the information and take any
7 appropriate action.” Letter from Todd Blanche, Deputy Attorney General, to DOJ Offices,
8 Divisions, and U.S. Attorneys (May 19, 2025) (“Blanche Letter”),
9 https://www.justice.gov/dag/media/1400826/dl?inline=&utm_medium=email&utm_source=gov
10 delivery.
11

12 625. Withholding HUD grants from HUD Plaintiffs could result loss of access to
13 housing and crucial housing and other services for millions of residents. For example, withholding
14 HUD block grants from HUD Plaintiffs would jeopardize affordable housing development and
15 preservation efforts. Many of HUD Plaintiffs’ residents would lose access to essential services,
16 including food assistance, mental health services, transitional housing, housing repair, housing
17 access, early education, and senior wellness programs. Loss of this funding would also destabilize
18 budgeting and strategic plans, including multi-year plans, built around federal funding
19 assumptions. The loss of these funds would ripple through local economies affecting jobs,
20 contractor revenues, and long-term community development outcomes such as access to food,
21 basic services, and homeownership and housing stability. Subrecipients of these funds such as
22 food banks, mental health providers, senior centers, and affordable housing agencies could face
23 operational disruptions and be unable to meet the needs of low-income families
24

25 626. Withholding CoC grants from CoC Plaintiffs in particular, could result in a loss of
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1 hundreds of millions of dollars in funding for housing and other services that those plaintiffs have
 2 adopted to meet the basic needs of their homeless residents. It would result in those plaintiffs being
 3 unable to serve their residents resulting in the loss of access to housing, healthcare, counseling,
 4 and other assistance. The loss of this funding, which represents a significant percentage of those
 5 plaintiffs' total budgets for homelessness services, would have devastating effects on their
 6 residents and communities more broadly.
 7

8 627. Withholding DOT grants from DOT Plaintiffs would result in loss of billions of
 9 dollars in funding for critical services and projects for their residents. For example:

- 10 a. Withholding FTA grants from plaintiffs who rely on those funds could result in loss
 11 of funding for public transit services, including capital projects, maintenance, and
 12 improvements, that will result in long-lasting harm to those plaintiffs' finances and
 13 delays to or elimination of critical transit projects. The loss of this funding, which
 14 represents a significant percentage of those plaintiffs' total budgets for public
 15 transit services, would threaten transit improvements and safety initiatives and have
 16 severe negative impacts on these services.
 17
- 18 b. Withholding FHWA grants from plaintiffs who rely on those funds could result in
 19 loss of funding for street and roadway improvements, including enhancing
 20 pedestrian safety, reconfiguring major roadways to decrease crashes and improve
 21 transit, and building bike lanes, that will result in long-lasting harm to those
 22 plaintiffs' finances, delays to or elimination of critical infrastructure and safety
 23 projects, and diversion of funds from other crucial local projects. The loss of this
 24 funding, which represents a significant percentage of those plaintiffs' total budgets
 25 for street and roadway projects, would threaten roadway improvement and safety
 26

1 initiatives and have severe negative impacts on these projects.

2 c. Withholding FAA grants from plaintiffs who rely on those funds could result in a
3 loss of funding for airport projects—including development and improvement of
4 runways, taxiways, terminals, and roadways as well as airport transit, safety, and
5 sustainability projects—that will result in in long-lasting harm to those plaintiffs’
6 finances, delays to or elimination of critical airport infrastructure and safety
7 projects, and diversion of funds from other crucial airport improvement projects.
8 The loss of this funding, which represents a significant percentage of those
9 plaintiffs’ total budgets for airport development and infrastructure projects, would
10 threaten airport improvement and safety initiatives and have severe negative
11 impacts on these critical projects.
12

13 d. Withholding FRA grants from plaintiffs who rely on those funds could result in a
14 loss of funding for rail infrastructure projects, including for railroad crossing
15 projects that seek to improve the safety and mobility of people and goods, that will
16 result in in long-lasting harm to those plaintiffs’ finances and delays to or
17 elimination of railway infrastructure and safety projects. The loss of this funding,
18 which represents a significant percentage of those plaintiffs’ total budgets for
19 railroad projects, would threaten rail-related safety initiatives and have severe
20 negative impacts on these projects.
21

22 e. Withholding DOT SMART grants from plaintiffs who rely on those funds could
23 result in a loss of funding for advanced smart community technologies and systems
24 projects, including projects using advanced technology and data methods to
25 improve transportation efficiency and safety. This will result in delays or
26

elimination of the planned projects, leading to continued and likely worsened inefficiencies, safety risks, and deterioration of air quality. The loss of this funding would threaten these transportation technology and modernization initiatives and have severe negative impacts on these projects.

628. Withholding HHS grants from the HHS Plaintiffs would threaten or eliminate critical individual and public health services for millions of residents. Loss of funding could decimate public health budgets and cause residents, including those most vulnerable, to lose access to meals, medical care, housing and lifesaving social safety net services. Loss of funding could also devastate local public health and child welfare agencies, who may be forced to conduct significant layoffs and operational reductions.

V. CAUSES OF ACTION

Count 1: Separation of Powers (All Grant Conditions)

629. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

630. The Constitution “exclusively grants the power of the purse to Congress, not the President.” *City & Cnty. of S.F. v. Trump*, 897 F.3d 1225, 1231 (9th Cir. 2018). This power is “directly linked to [Congress’s] power to legislate,” and “[t]here is no provision in the Constitution that authorizes the President to enact, to amend, or to repeal statutes.” *Id.* (second alteration in original) (quoting *Clinton v. City of New York*, 524 U.S. 417, 438 (1998)).

631. The Constitution vests Congress—not the Executive—with legislative powers, *see* U.S. Const. art. 1, § 1, the spending power, *see* U.S. Const. art. 1, § 8, cl. 1, and the appropriations power, *see* U.S. Const. art. 1, § 9, cl. 7. Absent an express delegation, only Congress is entitled to attach conditions to federal funds.

632. “The Framers viewed the legislative power as a special threat to individual liberty, so they divided that power to ensure that ‘differences of opinion’ and the ‘jarrings of parties’ would ‘promote deliberation and circumspection’ and ‘check excesses in the majority.’” *Seila Law LLC v. Consumer Fin. Prot. Bureau*, 591 U.S. 197, 223 (2020) (quoting *The Federalist* No. 70, at 475 (A. Hamilton) and citing *id.*, No. 51, at 350).

633. “As Chief Justice Marshall put it, this means that ‘important subjects . . . must be entirely regulated by the legislature itself,’ even if Congress may leave the Executive ‘to act under such general provisions to fill up the details.’” *West Virginia v. EPA*, 597 U.S. 697, 737 (2022) (Gorsuch, J., concurring) (quoting *Wayman v. Southard*, 10 Wheat. 1, 42–43, 6 L. Ed. 253 (1825)).

634. The separation of powers doctrine thus represents perhaps the central tenet of our Constitution. *See, e.g., Trump v. United States*, 603 U.S. 593, 637–38 (2024); *West Virginia v. EPA*, 597 U.S. at 723–24, *Seila Law LLC*, 591 U.S. at 227. Consistent with these principles, the executive acts at the lowest ebb of his constitutional authority and power when he acts contrary to the express or implied will of Congress. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 637 (1952) (Jackson, J., concurring).

635. Pursuant to the separation of powers doctrine, the Executive Branch may not “claim[] for itself Congress’s exclusive spending power, . . . [or] coopt Congress’s power to legislate.” *City & Cnty. of S.F.*, 897 F.3d at 1234. Indeed, the Impoundment Control Act of 1974 requires the President to notify and request authority from Congress to rescind or defer the expenditure of funds *before* acting to withhold or pause federal payments. 2 U.S.C. §§ 681 *et seq.* The President has not done so.

636. Congress has not conditioned the provision of HUD grants, DOT grants, or HHS grants on compliance with a prohibition on all forms of DEI policies and initiatives, nor on

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1 promoting aggressive and lawless immigration enforcement, requiring exclusion of transgender
 2 people, and/or cutting off access to information about lawful abortions. Nor has Congress
 3 delegated to Defendants the authority to attach the HUD Grant Conditions, the DOT Grant
 4 Conditions, or the HHS Grant Conditions unilaterally.

5
 6 637. By imposing the HUD Grant Conditions, the DOT Grant Conditions, and the HHS
 7 Grant Conditions on grant recipients, Defendants are unilaterally attaching new conditions to
 8 federal funding without authorization from Congress.

9 638. Further, the “[t]he interpretation of the meaning of statutes, as applied to justiciable
 10 controversies,” is “exclusively a judicial function.” *Loper Bright Enterprises v. Raimondo*, 603
 11 U.S. 369, 411–13 (2024) (internal quotations omitted).

12 639. Here, Defendants seek to impose conditions that purport to require compliance with
 13 the law interpreted and envisioned by the Executive, contrary to Congress’s authority to legislate
 14 and the Judiciary’s interpretation of the law’s meaning.

15 640. For these reasons, HUD and its program offices’ conditioning of HUD grants on
 16 compliance with the HUD Grant Conditions violates the separation of powers doctrine.

17 641. For the same reasons, DOT Defendants’ conditioning of DOT grants on compliance
 18 with the DOT Grant Conditions violates the separation of powers doctrine.

19 642. For the same reasons, HHS and its operating divisions and agencies’ conditioning
 20 of HHS grants on compliance with the HHS Grant Conditions violates the separation of powers
 21 doctrine.

22
 23
 24 **Count 2: Spending Clause**
 25 **(All Grant Conditions)**

26 643. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

1 644. The Spending Clause of the U.S. Constitution provides that “Congress”—not the
 2 Executive—“shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the
 3 Debts and provide for the common Defence and general Welfare of the United States” U.S.
 4 Const. art. I, § 8, cl. 1.

5 645. As described above, Defendants violate the separation of powers because the HUD
 6 Grant Conditions, the DOT Grant Conditions, and the HHS Grant Conditions are neither expressly
 7 nor impliedly authorized by Congress. For the same reasons, Defendants violate the Spending
 8 Clause as well.

9 646. The Spending Clause also requires States to have fair notice of conditions that apply
 10 to federal funds disbursed to them. *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 17,
 11 25 (1981). The grant conditions must be set forth “unambiguously.” *Arlington Cent. Sch. Dist. Bd.*
 12 *of Educ. v. Murphy*, 548 U.S. 291, 296 (2006).

13 647. Moreover, funding restrictions may only impose conditions that are reasonably
 14 related to the federal interest in the project and the project’s objectives. *S. Dakota v. Dole*, 483
 15 U.S. 203, 207, 208 (1987).

16 648. Finally, federal funds “may not be used to induce the States to engage in activities
 17 that would themselves be unconstitutional.” *Id.* at 210.

18 649. Even if Congress had delegated authority to the Executive and HUD to condition
 19 HUD grant funding on terms prohibiting all forms of DEI policies and initiatives, promoting
 20 aggressive and lawless immigration enforcement, requiring exclusion of transgender people, or
 21 cutting off access to information about lawful abortions, the HUD Grant Conditions would violate
 22 the Spending Clause by:

23 a. imposing conditions that are ambiguous, *see Pennhurst*, 451 U.S. at 17;

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 27
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- b. imposing conditions that are so severe as to be coercive;
- c. imposing conditions that are not germane to the stated purpose of HUD program funds, *see Dole*, 483 U.S. at 207 (“[C]onditions on federal grants might be illegitimate if they are unrelated ‘to the federal interest in particular national projects or programs.’”); and
- d. with respect to the prohibition on promotion of “gender ideology,” imposing a condition that purports to require HUD grant recipients to act unconstitutionally by discriminating on the basis of gender identity and sex, *see id.* at 210.

650. Similarly, even if Congress had delegated authority to the Executive or DOT Defendants to condition transportation, mass transit, highway, airport, and railroad funding on recipients’ agreement to terms prohibiting all forms of DEI policies and initiatives as conceived by the Administration or enforcement of federal immigration laws, the DOT Grant Conditions would violate the Spending Clause by imposing ambiguous grant conditions and imposing conditions not germane to the purposes of the statutes that authorize the DOT grant programs.

651. Similarly, even if Congress had delegated authority to the Executive or HHS to condition HHS grant funding on recipients’ agreement to terms prohibiting the advancement or promotion of DEI or gender ideology as conceived by the Administration, the HHS Grant Conditions would violate the Spending Clause by imposing ambiguous grant conditions, imposing conditions that are so severe as to be coercive, imposing conditions not germane to the purposes of the statutes that authorize the HHS grant programs, and, to the extent HHS and/or its operating divisions and agencies impose a prohibition on promoting “gender ideology,” imposing a condition that purports to require grant recipients to act unconstitutionally by discriminating on the basis of gender identity and sex.

Count 3: Tenth Amendment
(All Grant Conditions)

652. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

653. The Tenth Amendment provides that “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” U.S. Const. amend X.

654. Legislation that “coerces a State to adopt a federal regulatory system as its own” “runs contrary to our system of federalism.” *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 577–78 (2012). States must have a “legitimate choice whether to accept the federal conditions in exchange for federal funds.” *Id.* at 578.

655. Even if Congress had delegated authority to the Executive or DOT Defendants to condition transportation, mass transit, highway, airport, and railroad funding on a prohibition on any policy that “promotes” the Administration’s conception of an “illegal” DEI program or on participation in the Administration’s aggressive enforcement of federal immigration laws, the DOT Grant Conditions would violate the Tenth Amendment by imposing conditions so severe as to coerce plaintiffs receiving such funds to adopt the Administration’s reinterpretation of the law. *See id.* at 579 (Congress may not impose conditions so severe that they “cross[] the line distinguishing encouragement from coercion.”).

656. Further, even if Congress had delegated authority to the Executive or HUD to condition housing and development funding on a prohibition on any policy that the advances DEI as conceived by the Administration, facilitating enforcement of immigration laws, verification of immigration status, or prohibiting the “promot[ion]” of “gender ideology” or “elective abortion,” the HUD Grant Conditions would violate the Tenth Amendment by imposing conditions so severe

1 as to coerce plaintiffs receiving such funds to adopt the Administration's reinterpretation of the
 2 law. *See id.* at 579 (Congress may not impose conditions so severe that they "cross[] the line
 3 distinguishing encouragement from coercion.").

4 657. Moreover, even if Congress had delegated authority to the Executive or HHS to
 5 condition health care and human services funding on denying services to immigrants or prohibiting
 6 any policy that advances DEI or gender ideology as conceived by the Administration, the HHS
 7 Grant Conditions would violate the Tenth Amendment by imposing conditions so severe as to
 8 coerce plaintiffs receiving such funds to adopt the Administration's reinterpretation of the law. *See*
 9 *id.* at 579 (Congress may not impose conditions so severe that they "cross[] the line distinguishing
 10 encouragement from coercion.").

11
 12 **Count 4: Fifth Amendment Due Process (Vagueness)**
 13 ***(All Grant Conditions)***

14 658. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

15 659. Under the Due Process Clause of the Fifth Amendment, a governmental enactment,
 16 like an executive order, is unconstitutionally vague if it "fails to provide a person of ordinary
 17 intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages
 18 seriously discriminatory enforcement." *United States v. Williams*, 553 U.S. 285, 304 (2008).

19 660. The HUD Grant Conditions, the DOT Grant Conditions, and the HHS Grant
 20 Conditions are unconstitutionally vague.

21 661. Initially, each of the EO Conditions is vague in purporting to incorporate all
 22 executive orders. Executive orders are the President's directives to federal agencies and do not
 23 apply to federal grant recipients. The purported incorporation of all executive orders into the
 24 recipient or sponsor's use of grant funds renders the other new grant conditions vague.
 25
 26

1 662. Each of the Discrimination Conditions fails to make clear what conduct is
2 prohibited and fails to specify clear standards for enforcement. This uncertainty is amplified by
3 agency letters and statements, including the Duffy Letter, the Turner statements, HHS's policy
4 guidance and the Kennedy statements, and the Blanche Letter, that are at odds with case law and
5 statutes.

6
7 663. Each of the HUD Enforcement Conditions (which incorporate by reference the
8 Immigration Order) fails to define the terms "facilitates," "subsidization," or "promotion" with
9 respect to "illegal immigration," leaving federal grant recipients without fair notice of what would
10 violate the prohibition.

11 664. Similarly, each of the DOT Enforcement Conditions fails to define the terms
12 "cooperate," "cooperating," "impeding," and "enforcement" with respect to "Federal immigration
13 law," leaving federal grant recipients without fair notice of what would violate the prohibition.

14
15 665. Similarly, the FAA Termination Condition does not define "the public interest" or
16 "the interests of the FAA" that would support a termination decision or expressly limit those
17 interests to the funding of airport development or infrastructure, leaving federal grant recipients
18 without fair notice of what would trigger termination of their grants.

19 666. The definition of "gender ideology" adopted in each of the Gender Ideology
20 Conditions is so vague as to require people of ordinary intelligence to guess as to what is
21 prohibited. By the same token, each of the Gender Ideology Conditions affords unfettered
22 discretion to HUD, CPD, and HRSA (as well as any other HHS operating division or agency that
23 may follow suit) to determine, based on their subjective interpretation, whether a federal grant is
24 used to "promote gender ideology."

25
26 667. The meaning of the phrase "promote elective abortion" is also vague, leaving
27
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1 federal grant recipients without fair notice of what activities would violate the prohibition and
 2 affording HUD and other agencies unfettered discretion.

3 668. The vagueness with which the terms and conditions identified above define the
 4 conduct they prohibit is likely to chill First Amendment protected expression on matters of public
 5 concern.
 6

7 669. Thus, the HUD Grant Conditions, the DOT Grant Conditions, and the HHS Grant
 8 Conditions are unconstitutionally vague in violation of the Fifth Amendment's Due Process
 9 Clause.

10 **Count 5: Administrative Procedure Act, 5 U.S.C. § 706(2)**
 11 **Arbitrary and Capricious**
 12 **(All Grant Conditions)**

13 670. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

14 671. Defendants HUD, DOT, the DOT OAs (the FTA, the FHWA, the FAA, and the
 15 FRA), and HHS are all "agenc[ies]" as defined in the APA, 5 U.S.C. § 551(1). Additionally, the
 16 CoC Grant Agreements, the HUD Certifications, the Fernandez Letter, the FTA Master
 17 Agreement, the FY 2024 SS4A General Terms and Conditions, the 2025 FHWA General Terms
 18 and Conditions, the 2025 FAA Grant Assurances, the FY 2025 FAA AIG Grant Template, the
 19 2025 FRA General Terms and Conditions, the 2025 DOT SMART General Terms and Conditions,
 20 the 2025 HHS GPS, and the updated CDC, SAMHSA, ACF, and HRSA general terms and
 21 conditions are all agency actions subject to review under the APA.
 22

23 672. Final agency actions (1) "mark the 'consummation' of the agency's decision-
 24 making process" and (2) are ones "by which 'rights or obligations have been determined,' or from
 25 which 'legal consequences will flow.'" *Bennett v. Spear*, 520 U.S. 154, 178 (1997).

26 673. The CoC Grant Agreements are final agency actions of HUD because they reflect
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1 final decisions—in accord with presidential directives—to require grant recipients to comply with
2 various Trump Administration policy priorities as a condition to receiving federal CoC funds. *See*
3 *State ex rel. Becerra v. Sessions*, 284 F. Supp. 3d 1015, 1031–32 (N.D. Cal. 2018) (holding that
4 agency decision to impose new conditions on federal grants satisfies both tests for final agency
5 action because it “articulate[s] that certain funds” will “require adherence to the” new conditions
6 and “opens up the [recipient] to potential legal consequences,” including withholding of funds if
7 the recipient declines to accept the conditions); *Planned Parenthood of N.Y.C., Inc. v. U.S. Dep’t*
8 *of Health & Human Servs.*, 337 F. Supp. 3d 308, 328–29 (S.D.N.Y. 2018) (same).

10 674. Similarly, the Fernandez Letter and HUD Certifications are final agency actions of
11 HUD because they reflect final decisions—in accord with presidential directives—to require grant
12 recipients to comply with various Trump Administration policy priorities as a condition to
13 receiving federal CPD funds.

15 675. Similarly, the FTA Master Agreement, the FY 2024 SS4A General Terms and
16 Conditions, the 2025 FHWA General Terms and Conditions, the 2025 FAA Grant Assurances, the
17 FY 2025 FAA AIG Grant Template, the 2025 FRA General Terms and Conditions, and the 2025
18 DOT SMART General Terms and Conditions are final agency actions of DOT because they reflect
19 final decisions—in accord with presidential directives—to require grant recipients to comply with
20 various Trump Administration policy priorities as a condition to receiving federal DOT funds.

22 676. Similarly, the 2025 HHS GPS and the updated CDC, SAMHSA, ACF, and HRSA
23 general terms and conditions are final agency actions of HHS because they reflect final decisions—
24 in accord with presidential directives—to require grant recipients to comply with various Trump
25 Administration policy priorities as a condition to receiving federal HHS funds.

26 677. These actions determine rights and obligations and produce legal consequences
27
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1 because they exercise purported authority to create new conditions on already awarded funds that
2 would obligate recipients to comply with the Executive’s policy priorities.

3 678. Under the APA, a “court shall . . . hold unlawful and set aside agency actions,
4 findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise
5 not in accordance with law.” 5 U.S.C. § 706(2)(A).
6

7 679. “An agency action qualifies as ‘arbitrary’ or ‘capricious’ if it is not ‘reasonable and
8 reasonably explained.’” *Ohio v. EPA*, 603 U.S. 279, 292 (2024) (quoting *FCC v. Prometheus*
9 *Radio Project*, 592 U.S. 414, 423 (2021)). A court must therefore “ensure, among other things,
10 that the agency has offered ‘a satisfactory explanation for its action[,] including a rational
11 connection between the facts found and the choice made.’” *Id.* (quoting *Motor Vehicle Mfrs. Assn.*
12 *of United States, Inc. v. State Farm Mut. Automobile Ins. Co.*, 463 U.S. 29, 43 (1983)). “[A]n
13 agency cannot simply ignore ‘an important aspect of the problem’” addressed by its action. *Id.* at
14 293.
15

16 680. HUD has provided no reasoned explanation for its decision to impose conditions
17 related to prohibiting all kinds of DEI, facilitating enforcement of federal immigration laws,
18 verifying immigration status, and prohibiting the “promot[ion]” of “gender ideology” and “elective
19 abortion” on HUD funds that have no connection to those issues.
20

21 681. HUD has provided no reasoned basis for withholding funds Congress appropriated
22 for disbursement, except to the extent the CoC Grant Agreements, the HUD Certifications, and
23 Fernandez Letter make clear HUD is enacting the President’s policy desires, as expressed in
24 Executive Orders 14168, 14173, 14182, and 14218, in place of Congress’s intent.

25 682. HUD also ignores essential aspects of the “problem” it purports to address via the
26 CoC and CPD grant programs, including HUD Plaintiffs’ reasonable and inevitable reliance on
27
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1 now at-risk funds, the expectation of reimbursement from already appropriated funds, and the
2 potential impacts on homeless individuals and families, low-income individuals and families, and
3 other vulnerable people who may be dissuaded from accepting services if they must verify their
4 immigration status or are unable to use their identified gender in doing so.

5
6 683. Similarly, neither DOT nor its EOs have provided any reasoned basis for anti-DEI-
7 related conditions to the FTA, FHWA, FAA, FRA, and SMART grants, seeking to impose the
8 Administration's view on all policies and programs, even when they are unrelated to programs
9 receiving such grants. Moreover, DOT and its EOs failed to explain how the DOT Plaintiffs could
10 simultaneously comply with the each of the DOT Discrimination Conditions, while also complying
11 with statutory, regulatory, and other requirements that are in apparent tension with those
12 Conditions.

13
14 684. Nor has DOT or its EOs provided a reasoned basis for imposing conditions related
15 to "cooperation" with federal immigration enforcement on DOT funds that have no connection to
16 that issue.

17 685. The DOT and its EOs also have ignored the DOT Plaintiffs' reasonable reliance on
18 awarded, but not yet obligated, funds and the expectation of reimbursement from already
19 appropriated funds.

20
21 686. Similarly, HHS has provided no reasoned explanation for its decision to impose
22 conditions related to prohibiting all kinds of DEI on HHS funds that have no connection to that
23 issue, nor has HHS or HRSA provided any reasoned explanation for the decision to impose
24 conditions relating to prohibiting the promotion of "gender ideology" on HRSA funds that have
25 no connection to that issue.

26 687. HHS also has ignored the HHS Plaintiffs' reasonable reliance on awarded, but not
27
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1 yet obligated, funds and the expectation of reimbursement from already appropriated funds.

2 688. Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 28 U.S.C.
3 § 2201 that imposing the HUD Grant Conditions, the DOT Grant Conditions, and the HHS Grant
4 Conditions violates the APA because it is arbitrary and capricious; provide preliminary relief under
5 5 U.S.C. § 705; and preliminarily and permanently enjoin Defendants from imposing those
6 Conditions without complying with the APA.
7

8 **Count 6: Administrative Procedure Act, 5 U.S.C. § 706(2)**
9 **Contrary to Constitution**
10 **(All Grant Conditions)**

11 689. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

12 690. Under the APA, a “court shall . . . hold unlawful and set aside agency actions,
13 findings, and conclusions found to be . . . contrary to constitutional right, power, privilege, or
14 immunity.” 5 U.S.C. § 706(2)(B).

15 691. As described above, the imposition by HUD, including through its program offices,
16 of the HUD Grant Conditions violates bedrock constitutional provisions and principles including
17 the separation of powers between the President and Congress, the Spending Clause, and the Fifth
18 Amendment.

19 692. In addition, the imposition by DOT, including through its OAs, imposition of the
20 DOT Grant Conditions violates the separation of powers, the Spending Clause, the Tenth
21 Amendment, and the Fifth Amendment.
22

23 693. In addition, the imposition by HHS, including through its operating divisions and
24 agencies, of the HHS Grant Conditions violates the separation of powers, the Spending Clause,
25 the Tenth Amendment, and the Fifth Amendment.

26 694. Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 28 U.S.C.
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§ 2201 that imposing the HUD Grant Conditions, the DOT Grant Conditions, and the HHS Grant Conditions violates the APA because it is contrary to constitutional rights, powers, privileges, or immunities; provide preliminary relief under 5 U.S.C. § 705; and preliminary and permanently enjoin Defendants from imposing those Conditions without complying with the APA.

Count 7: Administrative Procedure Act, 5 U.S.C. § 706(2)
In Excess of Statutory Authority
(All Grant Conditions)

695. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

696. Under the APA, a “court shall . . . hold unlawful and set aside agency actions, findings, and conclusions found to be . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(C).

697. Defendants may exercise only authority granted to them by statute or the Constitution.

698. No law or provision of the Constitution authorizes Defendants to impose extra-statutory conditions not authorized by Congress on congressionally-appropriated funds.

699. Neither the Homeless Assistance Act, the HCD Act, the HEARTH Act, the Appropriations Act, PRWORA, nor any other legislation authorizes HUD or its program offices to impose conditions on HUD grant funding related to prohibiting all forms of DEI policies and initiatives, promoting aggressive and lawless immigration enforcement, requiring exclusion of transgender people, or cutting off access to information about lawful abortions.

700. In addition, none of the statutes authorizing the FTA, FHWA, FAA, FRA, and SMART grants, nor the relevant appropriations acts, authorize the DOT or its OAs to impose conditions on transportation, mass transit, highway, airport, or railroad funding related to prohibiting all forms of DEI policies and initiatives or promoting aggressive and lawless

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1 immigration enforcement.

2 701. In addition, none of the statutes authorizing the HHS grants, nor the relevant
3 appropriations acts, authorize HHS or its operating divisions or agencies to impose conditions on
4 HHS grant funding related to prohibiting all forms of DEI policies and initiatives, requiring
5 exclusion of transgender people, or denying services to immigrants.
6

7 702. Indeed, by threatening to unilaterally withhold funds on the basis of unauthorized
8 agency-imposed grant conditions, DOT, HUD, and HHS attempt to circumvent the process
9 established in the Impoundment Control Act of 1974, which requires the President to notify and
10 request authority from Congress to rescind or defer the expenditure of funds *before* acting to
11 withhold or pause federal payments. 2 U.S.C. §§ 681 *et seq.*
12

13 703. Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 28 U.S.C.
14 § 2201 that imposing the HUD Grant Conditions, the DOT Grant Conditions, and the HHS Grant
15 Conditions violates the APA because it is in excess of Defendants' statutory jurisdiction, authority,
16 or limitations, or short of statutory right; provide preliminary relief under 5 U.S.C. § 705; and
17 preliminarily and permanently enjoin Defendants from imposing those Conditions without
18 complying with the APA.
19

20 **Count 8: Administrative Procedure Act, 5 U.S.C. § 706(2)**
21 **Agency Action Contrary to Regulation**
(CoC and CDBG Grant Conditions)

22 704. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

23 705. Under the APA, a “court shall . . . hold unlawful and set aside agency actions,
24 findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise
25 not in accordance with law” or “without observance of procedure required by law.” 5 U.S.C.
26 § 706(2)(A).
27

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1 706. HUD’s Rule implementing the CoC program provides that recipients may be
2 required to sign grant agreements containing terms and additional conditions established by HUD
3 beyond those specifically listed to the extent those terms and conditions are established in the
4 applicable NOFO. 24 C.F.R. § 578.23(c)(12). The NOFO under which the CoC Plaintiffs were
5 awarded CoC funding for FY 2024 contains no terms or conditions related to prohibiting all kinds
6 of DEI, facilitating enforcement of federal immigration laws, verifying immigration status, or
7 prohibiting the “promot[ion]” of “gender ideology” or “elective abortion.”

8
9 707. By imposing new terms and conditions on the CoC Grant Agreements not included
10 in the NOFO or authorized elsewhere in the Rule or any other regulations, HUD failed to comply
11 with its own regulations governing the formation of CoC grant agreements and failed to observe
12 procedure required by law.

13
14 708. The CoC Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 28
15 U.S.C. § 2201 that imposing the CoC Grant Conditions violates the APA because it is contrary to
16 HUD’s own regulations and thus not in accordance with law and without observance of procedure
17 required by law; provide preliminary relief under 5 U.S.C. § 705; and preliminarily and
18 permanently enjoin HUD from imposing the CoC Grant Conditions without complying with the
19 APA.

20
21 709. HUD’s rule implementing the CDBG program provides that “HUD *will* approve a
22 grant if the jurisdiction’s submissions have been made and approved in accordance with 24 CFR
23 part 91 and the certifications required therein are satisfactory to the [HUD] Secretary. The
24 certifications will be satisfactory to the Secretary for this purpose unless the Secretary has
25 determined pursuant to subpart O of this part that the grantee has not complied with the
26 requirements of this part, has failed to carry out its consolidated plan as provided under § 570.903,

27
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1 or has determined that there is evidence, not directly involving the grantee's past performance
 2 under this program, that tends to challenge in a substantial manner the grantee's certification of
 3 future performance." 24 C.F.R. § 570.304. Nothing in the certifications required under 24 CFR
 4 part 91 relate to prohibiting all kinds of DEI, facilitating enforcement of federal immigration laws,
 5 verifying immigration status, or prohibiting the "promot[ion]" of "gender ideology" or "elective
 6 abortion."

7
 8 710. By imposing new terms and conditions on the CDBG grants not included in 24
 9 C.F.R. part 91 or authorized elsewhere in any regulations, HUD failed to comply with its own
 10 regulations governing the formation of CDBG grant agreements and failed to observe procedure
 11 required by law.

12 711. The HUD Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 24
 13 C.F.R. § 570.304 that imposing the CPD Grant Conditions violates the APA because it is contrary
 14 to HUD's own regulations and thus not in accordance with law and without observance of
 15 procedure required by law; provide preliminary relief under 5 U.S.C. § 705; and preliminarily and
 16 permanently enjoin HUD from imposing the CPD Grant Conditions as to CDBG grants without
 17 complying with the APA.
 18

19 **Count 9: Administrative Procedure Act, 5 U.S.C. § 706(2)**
 20 **Agency Action Without Procedure Required By Law**
 21 ***(FTA, FAA, FRA, and HUD Grant Conditions)***

22 712. Plaintiffs re-allege and incorporate the above as if set forth fully herein.

23 713. Under the APA, a "court shall . . . hold unlawful and set aside agency actions,
 24 findings, and conclusions found to be . . . without observance of procedure required by law."
 25 5 U.S.C. § 706(2)(D).

26 714. An agency "must abide by its own regulations." *Fort Stewart Schs. v. Fed. Labor*
 27
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1 *Rel. Auth.*, 495 U.S. 641, 654 (1990).

2 715. HUD has adopted regulations requiring it to proceed by notice-and-comment
3 rulemaking including for “matters that relate to . . . grants.” 24 C.F.R. § 10.1 (“It is the policy of
4 the Department of Housing and Urban Development to provide for public participation in
5 rulemaking with respect to all HUD programs and functions, including matters that relate to public
6 property, loans, grants, benefits, or contracts . . .”); 24 C.F.R. § 10.2 (definition of “rule”); 24
7 C.F.R. §§ 10.7–10.10 (notice-and-comment procedures); *Yesler Terrace Cmty. Council v.*
8 *Cisneros*, 37 F.3d 442, 447, 448 (9th Cir. 1994).

10 716. The FTA is subject to statutory notice-and-comment requirements for certain
11 statements pertaining to grants issued under title 49, chapter 53 of the U.S. Code (including the
12 FTA Grants). Specifically, “[t]he Administrator of the [FTA] shall follow applicable rulemaking
13 procedures under section 553 of title 5 before the [FTA] issues a statement that imposes a binding
14 obligation on recipients of Federal assistance under this chapter.” 49 U.S.C. § 5334(k)(1). For this
15 purpose, “binding obligation” means “a substantive policy statement, rule, or guidance document
16 issued by the [FTA] that grants rights, imposes obligations, produces significant effects on private
17 interests, or effects a significant change in existing policy.” *Id.* § 5334(k)(2).

19 717. The FTA, the FAA, and the FRA have also adopted regulations requiring those
20 agencies to proceed by notice-and-comment rulemaking when they promulgate substantive rules.
21 *See* 49 C.F.R. §§ 601.22(a), 601.24–601.28 (FTA); 14 C.F.R. Part 11 (FAA); 49 C.F.R. §§ 211.11–
22 211.33 (FRA).

24 718. Through the HUD Grant conditions, HUD has not just continued preexisting
25 requirements to comply with nondiscrimination laws and the other types of conditions approved
26 by and consistent with the relevant statutes and regulations, but also attached new conditions on
27
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1 grant agreements that require grant recipients to comply with various Administration directives as
 2 a condition to receiving federal HUD funds. These new conditions thus comprise a substantive
 3 rule, not an interpretive rule or general statement of policy. *See, e.g., Yesler Terrace Cmty. Council*,
 4 37 F.3d at 449 (“Substantive rules . . . create rights, impose obligations, or effect a change in
 5 existing law pursuant to authority delegated by Congress.”); *Erringer v. Thompson*, 371 F.3d 625,
 6 630 (9th Cir. 2004) (explaining that a rule is substantive, i.e., “legislative,” inter alia, if there is no
 7 “adequate legislative basis for enforcement action” without the rule, or if the rule “effectively
 8 amends a prior legislative rule”).

10 719. In imposing the HUD Grant Conditions, HUD failed to comply with the notice-
 11 and-comment requirements set forth in its own regulations, and thus failed to observe procedure
 12 required by law.

14 720. Through the FTA Grant Conditions, the FAA Grant Conditions, and the FRA Grant
 15 Conditions, the FTA, the FAA, and the FRA have not just continued preexisting requirements to
 16 comply with nondiscrimination laws and the other types of conditions approved by and consistent
 17 with the relevant statutes and regulations, but also attached new terms and conditions to FTA,
 18 FAA, and FRA Grants that require grant recipients to comply with various Administration
 19 directives as a condition to receiving federal transit, airport, and railroad funds, which are
 20 substantive policy statements, rules, or guidance documents that impose obligations or effect
 21 significant changes in existing policy, not interpretive rules or general statements of policy.

23 721. In imposing the FTA Grant Conditions, the FTA failed to comply with the notice-
 24 and-comment requirements set forth in 49 U.S.C. § 5334(k)(1) and its own regulations, and thus
 25 failed to observe procedure required by law.

26 722. In imposing the FAA Grant Conditions, the FAA failed to comply with the notice-
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1 and-comment requirements set forth in its own regulations, and thus failed to observe procedure
2 required by law.

3 723. In imposing the FRA Grant Conditions, the FRA failed to comply with the notice-
4 and-comment requirements set forth in its own regulations, and thus failed to observe procedure
5 required by law.
6

7 724. Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 28 U.S.C.
8 § 2201 that imposing the HUD Grant Conditions, the FTA Grant Conditions, the FAA Grant
9 Conditions, and the FRA Grant Conditions violates the APA because it is without observance of
10 procedure required by law; provide preliminary relief under 5 U.S.C. § 705; and preliminary and
11 permanently enjoin Defendants from imposing those Conditions without complying with the APA.
12

13 **VI. PRAYER FOR RELIEF**

14 WHEREFORE, HUD Plaintiffs request the following relief:

- 15 A. A declaration that the HUD Grant Conditions are unconstitutional, are not
16 authorized by statute, violate the APA, and are otherwise unlawful;
- 17 B. A preliminary and permanent injunction enjoining HUD and its program offices
18 from imposing or enforcing the HUD Grant Conditions or any materially similar
19 terms or conditions to any HUD applications or action plans (including both annual
20 action plans and grant-specific action plans) submitted by, or HUD funds received
21 by or awarded to, directly or indirectly, HUD Plaintiffs or, with respect to CoC
22 grants, members of CoC Plaintiffs' Continuums; and
23

24 WHEREFORE, DOT Plaintiffs request the following relief:

- 25 C. A declaration that the DOT Grant Conditions are unconstitutional, are not
26 authorized by statute, violate the APA, and are otherwise unlawful;

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1 D. A preliminary and permanent injunction enjoining DOT Defendants from imposing
2 or enforcing the DOT Grant Conditions or any materially similar terms or
3 conditions to any DOT applications submitted by, or DOT funds received by or
4 awarded to, directly or indirectly, DOT Plaintiffs; and
5

6 WHEREFORE, HHS Plaintiffs request the following relief:

7 E. A declaration that the HHS Grant Conditions are unconstitutional, are not
8 authorized by statute, violate the APA, and are otherwise unlawful;

9 F. A preliminary and permanent injunction enjoining HHS from imposing or
10 enforcing the HHS Grant Conditions or any materially similar terms or conditions
11 to any HHS applications submitted by, or HHS funds received by or awarded to,
12 directly or indirectly, HHS Plaintiffs by HHS or any HHS operating administration;
13 and
14

15 WHEREFORE, all Plaintiffs request the following additional relief:

16 G. Award Plaintiffs their reasonable costs and attorneys' fees; and

17 H. Grant any other further relief that the Court deems fit and proper.

18 DATED this 10th day of July, 2025.
19

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I hereby certify that on July 10, 2025, I served a true and correct copy of the Second Amended Complaint for Declaratory and Injunctive Relief and associated Summonses on the existing parties by the method(s) indicated below:

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I further certify that on July 10, 2025, I served a true and correct copy of the Amended Complaint for Declaratory and Injunctive Relief and associated Summonses on the following parties via certified mail:

Summons Directed To:	Summons and Amended Complaint Mailed To:
Robert F. Kennedy, Jr. in his official capacity as Secretary of the U.S. Department of Health and Human Services	Robert F. Kennedy, Jr., Secretary of Health and Human Services U.S. Department Of Health And Human Services c/o Office of the General Counsel 200 Independence Avenue, SW Washington, DC 20201
U.S. Department Of Health And Human Services	U.S. Department Of Health And Human Services Office of the General Counsel 200 Independence Avenue, SW Washington, DC 20201

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INJUNCTIVE RELIEF - 203

Attorney General of the United States	Attorney General of the United States U.S. Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530-0001
Office of the United States Attorney for the Western District of Washington	Office of the United States Attorney Western District of Washington 700 Stewart Street, Suite 5220 Seattle, WA 98101-1271

I declare under penalty of perjury under the laws of the United States and the State of Washington that the foregoing is true and correct.

DATED this 10th day of July, 2025.

/s/ Gabriela DeGregorio

Gabriela DeGregorio
Litigation Assistant
Pacifica Law Group LLP